

WORLD TRADE ORGANIZATION

RESTRICTED

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Negotiating Group on Trade Facilitation

SUMMARY MINUTES OF THE MEETING

Held in the Centre William Rappard
on 13-14 June 2005

Chairman: Mr. Muhamad Noor Yacob (Malaysia)

1. The Chairman said that the main purpose of the meeting was two-fold: (i) to provide delegations with an opportunity to make contributions on the agenda of the Negotiating Group (NG) – both in terms of offering new input and of reacting to the contributions previously received, and (ii) to address the issue of technical assistance (TA) and capacity building (CB) as an element everybody considered to merit special attention. Furthermore, Members would be invited to admit relevant international organizations, including the IMF, OECD, UNCTAD, WCO and the World Bank, to attend the next meeting of the Group on an ad hoc basis.

2. The agenda was adopted.

A. CONTRIBUTIONS ON THE AGREED AGENDA OF THE NEGOTIATING GROUP

3. The representative of the Philippines, speaking on behalf of the Core Group, expressed the Group's satisfaction with the structuring of the agenda, which enabled Members to contribute to various aspects of GATT Articles V, VIII and X, with the opportunity to revert to prior proposals on those Articles. The Core Group also appreciated the interactive nature of the plenary sessions and wished to thank the WTO Secretariat for its compilation TN/TF/W/43. For July, a similar compilation would suffice for the purpose of the July result in a summary of the current state-of-play without prejudice to further possible proposals after that time.

4. The representative of Argentina introduced Argentina's submission TN/TF/W/40, explaining that Argentina wished to make a contribution to improve and clarify GATT Article X. It was not the first time that that Article had been looked at. There had been various communications submitted by other Members which dealt with the importance of transparency with regard to access to information about rules and standards that needed to be accessible to the private sector and to the business community. A look had also been taken at similar frameworks that had been used, for example in the area of SPS, regarding focal points and setting up a mechanism which would allow for interaction between the private sector and authorities in Members states to obtain trade information and to have the information readily accessible.

5. The Argentinean proposal focussed on the implementation side, suggesting ways of how those improvements to Article X could be made. The proposal was very simple, the idea being to set up a link on the WTO website and have it linked to national websites. Consultations the Argentinean government had had with the private sector on that issue had shown that it was very important for enterprises, especially small- and medium-sized enterprises (SMEs), to have access to that information in a direct and rapid way. Therefore, the paper proposed to use the internet to provide traders with that information. It was proposed to set up national websites with links to a general WTO web page, that would allow for the information to be accessible both for the private sector and for Members.

6. The representative of Turkey said that current trade liberalization initiatives within the WTO contributed much towards creating more open and accessible markets for all traders worldwide. However, efforts to liberalize trade by eliminating or reducing tariff and non-tariff barriers would be incomplete unless accompanied by TF efforts to simplify and harmonize customs procedures and improve transparency and predictability. Customs procedures and trade-related regulations must be simple, easy to understand and must be applied in a consistent, fair and transparent manner so that the potential value of trade liberalization efforts would be maximized.

7. Turkey was of the opinion that Members needed more awareness of the benefits and efficiencies that simplification of customs procedures could bring developing countries. The gains of trade facilitation (TF) were especially great for SMEs and traders in developing countries, for whom the costs of compliance with trade procedures were proportionately higher and a disincentive to trading internationally.

8. Turkey supported the efforts within the WTO for setting binding rules on TF. In that respect, Turkey wished to present some key elements to be included in a possible Agreement on TF. Those were: consistency and predictability, transparency and acceleration of customs clearance procedures. The details of those elements were set out in Turkey's paper TN/TF/W/45.

9. The first elements Turkey wished to propose to be included in the outcome of the negotiations were consistency and predictability. To improve consistency and predictability, the use of standard forms and electronic documents would be beneficial, including the core set of data elements actually required by customs to finalize the procedures. To achieve that, the harmonization of import documents and the data required for the release of goods, using existing international standards under the Customs Valuation Agreement, the HS Nomenclature, the UN Layout Key Guidelines, the Kyoto Convention and the like, was essential. Also, generally accepted international standards or recommendations on documentation developed by organizations, such as relevant UN bodies and the WCO should be utilized. In Turkey's view, the UN Layout Key, the world standard for international trade documents in paper format, and UneDocs, aiming at becoming the world's electronic trade document standard, would be most convenient in that regard since substantial progress had been achieved on them.

10. In that context, Turkey wished to offer a proposal which could be utilized as a step to harmonize customs procedures. While standardizing customs procedures, defining the work processes in customs was essential for eliminating unnecessary and repetitive procedures. When one received the "flow chart" of procedures, starting from the importer's level, one could then transfer that to design software that would require a step-by-step approach to finalize the customs procedures. Thus, in a possible Agreement on TF, it would be helpful if Members defined their customs work processes with a flow chart on the official website of customs authorities, which would significantly eliminate the bottlenecks and increase the procedures predictability for traders.

11. A second element for the Agreement on TF was the improvement in transparency. Article X dealt with the transparency principle. Thus, any improvement in the implementation of Article X would help traders to easily reach relevant information that would expand the trade environment.

12. It was difficult to evaluate the achievement of implementing Article X, which was neither a failure nor a success story. From Turkey's experience with other agreements covering transparency requirements, such as the ones on TBT and SPS, the best way to improve transparency under Article X was to have recourse to them.

13. Turkey believed that a transparent and effective system could only be established by setting achievable objectives. There was no doubt that the publication of trade legislations was a crucial factor to improve transparency. Therefore, that publication had to take place via easily accessible

means. However, the starting point had to be the determination of the coverage/scope of the trade regulations to be published. Paragraph 1 of Article X covered a comprehensive list of regulations. Not only Article X, but also the proposals in documents TN/TF/W/8 and TN/TF/W/6 might be useful assets. In addition, those regulations should be published in an easily accessible medium from which it should be practical to reach the contact person capable of providing additional and detailed information. Therefore, the best address was the official websites of national trade enquiry points.

14. The establishment of national trade enquiry points would improve transparency. Turkey's experience in the area of TBT and SPS showed that enquiry points not only improved accessibility of information, but also improved relations among countries and facilitated problem solving. The system to provide transparency must be a simple one. Different addresses for different trade regulations would not contribute to the aim of facilitating trade.

15. If Members established national trade enquiry points and national websites on trade regulations, the next question to answer would be what kind of information to publish. Developed countries might publish all regulations/legislation in one of the WTO's official languages. However, one should be realistic and have achievable objectives. Requesting the same from developing and least-developed countries would be demanding too much.

16. Requesting summaries of all relevant regulations in one of the WTO's official languages might be one approach. Those summaries were useful if one knew what one was looking for, or if it was the summary of a sector specific regulation. It was helpful for TBT matters because a short indication of the product the technical regulation was about would help understand a regulation's coverage. However, with respect to different provisions on different areas, a simple summary might not be helpful, and the preparation of a meaningful summary might be more difficult than translating the regulation completely. Even in such cases, traders would have to check all summaries one by one, to see if they covered the information they were looking for. A useful approach might be the preparation of a format which included the following information: country name, the name of the legislation, responsible authority, a short summary, if so wished, and keywords. The crucial point of the system was the use of keywords. Establishing a list of keywords to be adopted by all WTO Members would facilitate the publication of legislation and also improve accessibility. A comprehensive keywords-list might include some general words related to legislation. Any trader looking for information about a country's inspection policy might reach the relevant documents by accessing that country's national enquiry point's website and searching regulations by those keywords.

17. Once the traders reached the relevant regulation, they could seek the assistance of different references, namely national or international business organizations, their own national authorities or official trade representatives, for the translation. In addition, when developed countries translated regulations for their own use, they might provide those unofficial translations for general use. A similar voluntary system worked in the context of the TBT when a developed country translated the regulation of a developing country, opening it to the use of all others. While national trade enquiry points might do that work, a parallel work might be carried out at the WTO through a trade portal. The system suggested in the paper was similar to the system provided at the "International Portal on Food Safety, Animal and Plant Health" in which the WTO Secretariat also took part.

18. The third element to be included was the acceleration in customs clearance procedures. Delays in customs clearance procedures due to excessive customs formalities significantly affected traders' ability to conduct business in the international trade environment. Thus, the development of improved management practices and procedures that ensured the timely movement and clearance of goods was required. Also, to avoid unnecessary obstacles to trade, customs procedures must be reduced to an absolute minimum consistent with the need to apply legitimate controls. There was need for simple/electronic clearance processes, for more electronic rather than manual systems. In addition, pre-arrival acceptance of documents systems might also help accelerate the trade flow.

19. In that respect, automated and Electronic Data Interchange (EDI)-based electronic systems should be introduced to replace paper-based procedures across customs and ultimately all other agencies involved in import and export administration. In that area, the collaboration between the government and private sector was crucial.

20. Turkey had already initiated a customs automation project in 1996 to ensure more effective tax collection, better service to the trade community, to have selective, but more effective customs control, uniform implementation of customs legislation, more effective human resources management, and more effective and rapid production of foreign trade statistics. As a result of the project, the administrative and operational capacity of customs increased substantially. The automation of 18 regional directorates and 68 customs offices had been completed in the framework of the Customs Modernization Project (GIMOP). Around 99.5 per cent of customs entries were now processed electronically via the computerized import/export and the national transit entry-processing system (BILGE).

21. By automating customs, information on importers, their record, customs examination record and other relevant information would be stored. This data would also support risk management. Risk management would allow authorities to focus compliance efforts in selected areas in contrast to a full-scale transactional compliance approach, which envisaged a comprehensive examination of each shipment at the border to ensure full compliance with all requirements. However, risk management techniques should strike a balance between TF and border control requirements.

22. Turkey supported the use of risk management techniques in customs clearance. That system might be used to simplify procedures and accelerate the system. In addition, it might be functional in operating pre-arrival and post-clearance audit systems. On the other hand, Turkey had already initiated the "e-Document project in Foreign Trade" which set up the infrastructure of a Single Window approach. The project was being pursued in order to produce, share and circulate the documents used in foreign trade, in an electronic environment. A free-trade zone had been determined as a pilot zone for the project. As a preparatory stage for the implementation of the e-document project, Turkey would soon enforce its project on automating an inward processing regime. Effectiveness, transparency and predictability of foreign trade operations would be enhanced further with the enforcement of the Project. The decrease of the number of documents and of bureaucracy, the implementation as attainments to the relevant institutions on the electronic environment and the opportunity to conduct operations via the internet would provide greater facilities to exporters/importers, as well as to the intermediary sectors such as transportation, finances and insurance. Furthermore, it was aimed to increase cooperation between the public and private sector.

23. Turkey believed that those elements of consistency and predictability, transparency, and acceleration of customs clearance procedures were all crucial and should all be included in the Agreement on TF. Turkey was ready to contribute more to the negotiations in order to reach a first approximation by the end of July.

24. The Chairman said that the meaning of "first approximation" would vary from Negotiating Group to Negotiating Group, as all delegations would appreciate.

25. The representative of the United States welcomed the proposals by Argentina. The US had submitted a similar proposal on improvements related to transparency through the use of cost saving information technology. The United States was intrigued by some of the additional elements that Argentina put forward in its proposal which contained some interesting ideas. The US hoped to work with Argentina on those ideas as the United States shared what had been submitted by Argentina. It underscored the fact that, what was talked about was a very simple idea. It was very concrete and would bring improvements to the trading system overall, with particular benefits to SMEs.

26. The US also welcomed the submission by Turkey, which was consistent with some of the other ideas the US had already put forward, and which contributed to further work.

27. The representative of Zambia, speaking on behalf of the LDC Group, said that the LDCs attached importance to the negotiations on TF and looked forward to the effective implementation of all the elements contained in Annex D of the July Package. The Group welcomed the different proposals that had so far been tabled for the NG's deliberations and negotiations. The LDCs continued to endeavour to examine them and the eventual implications despite their limited capacities. The LDCs wished to commend the good work done by the Secretariat in compiling the proposals in document TN/TF/W/43, which was clear, concise and useful. The LDCs wished to request the Secretariat to update the compilation as new proposals came in. A cursory look at the document revealed that Members now had a great number of issues on the table. The LDCs wished to stress that the correlation would have to be maintained between the scope of negotiations and the extent and nature of TA to implement the possible outcome.

28. The LDCs' position on Trade Facilitation was known to all Members. The LDC Group wished to see TF as a means of integrating their economies into the multilateral trading system. There were, no doubt, potential gains through an overall upgrading of the TF chain. However, there were also constraints due to possible costs of TF measures, in view of the LDCs limited financial, administrative and institutional capacities. The success of the negotiations depended in the end upon their strong development content and meaningful market access for LDC products.

29. It was in that context that the LDCs welcomed the objective of the negotiations on TF aiming at not only clarifying and improving GATT Articles V, VIII and X, but also at enhancing TA and support for capacity building in that area. The LDCs, therefore, wished to see the negotiations place adequate emphasis on achieving that objective in order to enable the LDCs to benefit from more efficient and smoother trade flows. The Group further wished to stress the approach of linking implementation obligations to the capacities of LDCs as mentioned in paragraph 3 of the modalities.

30. The LDCs wished to reiterate that the LDCs placed high importance on the linkage of S&D obligations with the substantive issues of the modalities regarding the three Articles. The clarification and implementation of relevant aspects of GATT Articles V, VIII and X should therefore be considered in a holistic manner, taking into account all developmental aspects in parallel. The LDCs therefore re-emphasized that all clarification and improvement exercises should not leave behind development implications in terms of needs and priorities of LDCs, such as TA&CB, built-in special and differential treatment (SDT), and should also take into account the cost implications of proposed measures.

31. Therefore, the LDCs could not over-emphasize the need for financial and TA as well as support for infrastructure development in implementing the outcome of the Trade Facilitation negotiations. The LDCs, therefore, wished to call upon Members to ensure such assistance, with a clear flow of funding, to meet the implementation costs.

32. The representative of Switzerland said that Switzerland fully shared the principle articulated in the Argentinean submission that, to be able to benefit from commercial advantages resulting from the commitments entered into by WTO Members and to avoid obstacles due to a lack of information or excessive bureaucracy, economic agents needed to know the rules and trade practices of other Members. Information must be simple and easily accessible.

33. Switzerland was aware that the point on the languages in which such information was made available was a delicate one both from a resources stand point as well as from a political standpoint. But it was a point that agents in Switzerland, especially ones from small enterprises, stressed greatly.

34. The representative of the European Communities welcomed the submissions from Argentina and Turkey. The EC gave full support to the interesting proposals by Argentina for greater transparency and very much agreed with the arguments in the Argentinean paper, in particular regarding the point that more transparency was particularly crucial for smaller businesses. The European Communities found it also extremely interesting, in the sense that a link was made between transparency and simplification. The more that information was transparent and easily accessible, the less bureaucracy there was. The EC also liked the proposal Argentina made in paragraph 4 of its paper to establish some kind of WTO website that would provide links to national websites of Members' administrations. That seemed to be a very good compromise between having full WTO notification of everyone's existing procedures, which was difficult to envisage, and only domestic transparency in each country. The Argentinean paper also contained some useful links between the question of simplification, transparency measures and costs and TA.

35. The EC further shared Turkey's assessment of the need for a range of simplification measures, notably to help SMEs, and supported most of the specific proposals made. The European Communities was very pleased to see that proposal.

36. In respect to the intervention from Zambia, which the European Communities found very comprehensive and useful, the EC invited Zambia to circulate its statement made on behalf of the LDCs. It seemed to contain useful information and many observations which would be helpful for the NGOs work over the next few months.

37. The representative of Chinese Taipei said that Turkey had raised several valuable points in its proposal on a range of topics, such as the adoption of a core set of data elements and common international trade requirements and procedures, the use of common forms and electronic documents, the automation of customs procedures, the use of risk management techniques, customs release time, the Single Window, advance rulings and express consignment clearance. Their suggestions on providing summaries of all the relevant regulations on a nationally accessible website seemed to be very realistic and would surely improve transparency under GATT Article X.

38. On Argentina's proposal, Chinese Taipei also shared most of the suggestions made. However, his delegation would appreciate if Argentina could elaborate on the feasibility of the following points: (1) the creation, on the official WTO website, of a TF link to relevant national websites, (2) each Member providing the Secretariat with a list of websites containing detailed information under Article X; (3) requesting the necessary TA from developed countries or the WTO and other bodies offering services for the translation of regulations into one of the official languages of the WTO.

39. The representative of Korea said that the proposals by Argentina and Turkey had contributed to clarifying and improving Article X of the GATT.

40. With respect to the Argentinean proposal, Korea generally supported all the ideas, especially the suggestion to create an official WTO web page or TF link as a publication media which, to some extent, was along the same lines as some of the Member's previous suggestions, including one made by Korea.

41. Although some flexibility had been left as to the type of media a Member could choose for publication purposes, depending on each one's capacity, Korea believed that Argentina's proposal was a useful approach, especially with respect to the suggested use of IT, even though it would incur some start-up costs. Korea believed that once such an IT system was in place, it would significantly enhance the facilitation of trade of all Members with no additional costs.

42. Clarification was sought from Argentina on one point. Argentina had stated that there was a necessity for TA, especially for the translation of those regulations into one of the official WTO

languages. While Korea was admitting the importance of such translation, Korea wished to have some clarification on the envisaged scope of the regulations included. Would it require the translation of all legislation or would a summary suffice? If the proposal was to translate the full text of all legislation, this might lead to excessive or onerous burdens on Members to do that. Korea preferred the summary option. If it was on the web page, the interested parties could refer to the summaries and could then get full information through appropriate channels.

43. Korea shared most of the ideas contained in Turkey's paper, especially the interesting ones regarding a "flow chart" and official websites of Members' customs authorities. Korea also welcomed the proposal regarding national trade enquiry points, which was similar to Korea's proposal to establish a Single National Focal Point. Korea shared the view of the necessity of such enquiry points. The suggested usage of key words was also useful, as well as time limits for customs release and the establishment of a Single Window. Korea shared that proposal which would contribute to improving and clarifying the three GATT Articles.

44. In that context, Korea had a question similar to the one posed to Argentina. More information was sought on the question of whether the idea was to provide all relevant regulations in full text or whether a summary would suffice. A simple summary might not always be helpful, but one useful way to make full use of that information was through some kind of summary.

45. A second question related to advance rulings. In paragraph 37 of its paper, Turkey was saying that those advance rulings should be case specific. Korea wondered whether that was meant to relate to specific cases for advance rulings or advance rulings of general application. Korea would prefer the latter.

46. The representative of Hong Kong, China welcomed the paper by Argentina which contained some useful suggestions regarding Article X. Hong Kong, China generally welcomed the proposal to set up a page on the WTO website with the hyperlinks to Member's national websites, and to establish national websites and enquiry points to facilitate access to trade-related information and to make enquiries. Regarding the WTO website, Hong Kong, China noted that the existing WTO website already contained a web page for each Member, with hyperlinks to a domestic site nominated by the Member. Hong Kong, China was open to suggestions for enhancing the existing WTO website to provide information relating to trade regulations.

47. With respect to the suggested publication of Members' trade regulations in the official WTO languages, which Hong Kong, China supported, his delegation was open to suggestions on how the problem of certain Members whose language was not one of the official WTO languages could be addressed without putting too heavy a burden on those Members. Hong Kong, China welcomed further discussions to explore practical ways for the concerned Members to make available the trade regulations in the WTO official languages and on how TA could be targeted to their needs.

48. Hong Kong, China welcomed Turkey's proposal which suggested ways to simplify and harmonize customs procedures and to improve transparency of trade regulations. The proposed elements for inclusion in the possible trade facilitation agreement were interesting and could facilitate Members' further discussions.

49. The representative of Colombia said that Argentina's proposal on setting up a link to the WTO web page and e-mail account was interesting and very useful. Nevertheless, Colombia was of the view that Members had to commit themselves to updating information, requirements etc., for foreign trade. If one implemented that proposal, the information would need to be updated. The Argentinean proposal was to be seen in the context of positive results of the negotiations. Therefore, it was very important to have a lot of detail about the envisaged timeframe for implementing the idea, as well as

information about how Argentina thought one could set out the measures. Would there be new measures or would they be measures that Members were already using in various countries?

50. Likewise, Colombia supported the need to have a computerized database in order to have information available as laid out in paragraph 5. Colombia also supported the need to deal with the issue of languages. It would be practical for the information from all countries to be available in one of the three official WTO languages. Colombia understood and shared the concerns expressed by other delegations such as Korea, and Hong Kong, China in that context.

51. Colombia felt that Argentina's proposal should be looked at together with others, particularly the one by Korea (TN/TF/W/7) about notifying to the WTO Secretariat legislation, rules and administrative requirements, including amendments. All of that had to be notified.

52. Turkey's proposal dealt with three areas that addressed key elements, all of which should be able to lead to an agreement on trade facilitation. The proposal was broad and comprehensive and the details were still being studied. Colombia wished to highlight and stress the fact that Members had to bear in mind the experience and the models they were familiar with from the SPS and TBT agreements. Members also had, first and foremost, to define the scope of trade regulations that were to be published in that context. Colombia also shared the concerns expressed by Turkey with regard to summaries to be published on the web page, particularly by developing countries. The progressive approach was useful and appropriate, taking into account a country's capacity to implement the measure.

53. The representative of Egypt said that the proposal by Argentina was interesting. However, Egypt would appreciate if Argentina could provide more information on how the existing differences between Members could be sufficiently taken into consideration. Not all Members maintained detailed customs websites and/or databases. The TA&CB support embodied in Argentina's proposal should first be clarified and specified in order to ensure that all Members were on an equal footing.

54. With respect to the proposal made in paragraph 6, Egypt also considered languages to be an important issue. Not all WTO Members could provide information in the three official WTO languages. However, that issue might raise three important implications: (i) the question of costs of translation; (ii) the legal status of the translated material; and (iii) the question of time tables that should be established to that end.

55. Clarification was also sought from Argentina as to whether the timetable was meant to be mandatory for all WTO Members or whether flexibility could be provided.

56. The representative of Panama wished to touch upon certain elements of the contributions from Argentina and from Turkey on how to improve and strengthen Article X which Panama shared and which should be discussed further to enable Members to reach positive conclusions on those proposals.

57. With regard to the Turkish proposal, Panama welcomed the suggestion for simplifying publications, which was also touched upon in a more general manner in the proposal from Argentina. Turkey's proposal also referred to harmonizing customs procedures something on which Members should be able to achieve good results, given the commitments they were ready to make.

58. With regard to the Argentinean proposal, Panama welcomed the suggestion to set up a web page. Such a web page could make a significant contribution towards facilitating the rapid consultation of Members' rules and legislation on their customs procedures. With respect to paragraph 4 of Argentina's proposal, it would be necessary to discuss further deadlines, which the proposal did not mention. The issue of deadlines should be dealt with by Members and clarified.

59. Argentina's and Turkey's proposals should be discussed in greater detail to clear up concerns expressed by delegations, which should be taken into account.

60. The representative of Paraguay appreciated Argentina's and Turkey's inputs. Maintaining transparency in the rules governing trade flows was of the utmost importance, particularly for landlocked countries. Paraguay was delighted that Argentina, a country of transit for Paraguay, had offered a useful and viable alternative for maintaining that principle. The proposals put forward in TN/TF/W/40 were of great value. To better understand their scope, Paraguay would be grateful if Argentina would inform: (i) whether the provision of information and the preparation of web pages to feed the proposed link would be undertaken on a compulsory or a voluntary basis; and (ii) what the legal value would be of replies to queries made through the suggested service, and what the consequences would be of failing to provide a response.

61. The representative of Uganda associated his delegation with the statement made by Zambia on behalf of the LDC Group.

62. The current meeting was extremely important as the NG approached the July approximation and the run-up to the Hong Kong Ministerial Conference. Members should view that period as an opportunity to obtain the technical and financial assistance required and to address the challenges that the outcome of the negotiations on TF presented for developing countries and, particularly, LDCs. Uganda looked forward to an early outcome on the issue of technical and financial assistance so that the required institutional infrastructure and other domestic reforms necessary for implementation could be tackled in good time. It was Uganda's hope that that could be clearly reflected in the July approximation.

63. Uganda welcomed the proposals by Argentina and Turkey and would continue to study them to assess their implications.

64. The representative of Jamaica wished to offer some initial comments on the submission by Turkey. On page 2, paragraph 5 of the submission which dealt with common international trade requirements and procedures, it was Jamaica's view that that might constrain a country's policy space. For some Members that may imply that declaration forms had to be redesigned, and administrative procedures and documentary requirements amended. That would require additional expenditure. The suggestion in paragraph 6 to use electronic documents was useful. However, note had to be taken that, in Jamaica, that was currently not fully realized due to practical considerations relating to electronic signatures and the integrity of electronic systems.

65. The proposal for the establishment of national single trade enquiry points contained in paragraph 14 would certainly improve transparency. In Jamaica's case, Jamaica had faced constraints in getting such a system up and running because one of the key concerns had been that the process might require the deployment of valuable resources away from other more critical areas.

66. In terms of transparency, Jamaica considered it important to define the scope of the information to be published. For example, trade regulations and relevant legislation might be all that was necessary.

67. Regarding the proposal for a simple electronic clearance processes contained in paragraph 25, it should be noted that Jamaica customs already employed, or was about to employ in some other areas, electronic systems to facilitate the clearance of goods.

68. With respect to the proposal made in paragraph 30, Jamaica agreed that there were real advantages to risk management. In that regard, Members should bear in mind that, sometimes, risk

management operations faced constraints. There might therefore be a need to share experiences in that area.

69. The proposal to establish a time limit for customs release was useful. However, making that binding would place an obligation on some customs administrations which, due to various constraints, might not be able to accomplish that.

70. Customs operating procedures to coordinate with other border agencies were fairly well established in Jamaica. However, the computer interface proposed in that same paragraph would be quite expensive in that it required the development of tests and training of personnel.

71. Jamaica also had a few concerns on the question of advance rulings, although it recognized a need to deepen its capacity in that area in terms of personnel and resources.

72. With respect to the proposal contained in paragraph 39, Jamaica reiterated that it considered it very important to prove the legitimacy of documents. All import declarations must be accompanied by original supporting documents, and Jamaica therefore still had a concern with respect to the acceptance of photocopies.

73. The representative of Kenya commented on Argentina's proposal for Members to provide the Secretariat with a list of websites containing detailed information as reflected in paragraph 5, noting that it would not be feasible, at least for Kenya, to envisage any kind of comprehensive notification procedure on average customs procedures, rulings or guidelines of general application. The resource burdens would be too great for some Members. Also, the experience with a WTO notification system had shown that it had its own limits. Kenya's experience had shown that a simple notification was always useful. If there was any additional information needed, an enquiry point would be useful in supplementing such information.

74. Clarification was sought on the proposal contained in paragraph 6 regarding the language issue. If, for instance, regulations were translated into one of the official WTO languages, Kenya wished to know what would happen to those Members which were not versed in all the WTO official languages. There was a practical problem related to that. Kenya would also like to hear a reply from Argentina on Egypt's question about the cost implications relating to translation.

75. The representative of Canada said that the compilation was an extremely useful tool for Members to move the negotiations forward.

76. Clarification was sought regarding the proposals on advance rulings contained in paragraphs 7 and 37 of Turkey's submission. The submission pointed out that advance rulings should be case specific. Canada wished to know what was meant by "case specific".

77. As indicated in Canada's submission TN/TF/W/9, advance rulings would be issued at the written request of an importer in connection with tariff classification, applicable rate of duty, or any tax applicable upon importation of a specific good. In that sense, the advance ruling would be case specific. However, Canada would consider that an advance ruling could set jurisprudence for other transactions involving the same goods and the same circumstances. In the latter sense, advance rulings would have elements of a general application. Therefore, Canada would be grateful if Turkey could provide Members with their views on that issue.

78. The representative of Argentina wished to respond to the questions raised with respect to document TN/TF/W/40. As many of the comments were identical, or at least similar, answers would be given in terms of categories or subjects rather than by replying to specific delegations.

79. The first point on which Argentina wished to shed some light was to how the system of creating a WTO web link with national enquiry points or websites would function, Hong Kong, China had said that there was already a WTO website and that the task would be merely one of improving the existing website. But on the WTO website, Members would only be able to produce a link to national points or websites. The basic idea was the creation of national websites where one could access any type of trade or business information.

80. With respect to the question raised by Korea, Colombia and Egypt on what sort of information would be published, the proposal based itself on the existing scope of Article X. Argentina was aware that there had been discussions and proposals about the possibility of broadening the scope of Article X to include other instruments and practices, but as far as Argentina was concerned, the starting point was still the existing scope of Article X.

81. Other delegations, such as Kenya, had also raised the concern about what would happen if some countries did not have a website or a computerized database, as well as about the costs involved in the exercise. But the Argentinean proposal was trying to tackle the subject from an implementation stand point and not from the stand point of a legal obligation involved in the provisions of the WTO Agreements. There was a reason for that. Argentina wanted to see exactly where Members should be focussing TA. Therefore, Members who were not in a position to have a national website should benefit from assistance to be able to do this. One had to look at the result of the negotiations which should be to make it possible for all Members to have a national website with trade information and for everybody to be in a position to publish its trade regulations and norms. That should be an upshot of the negotiations. From Argentina's perspective, the result of the negotiations was not merely a question of being obliged to have a national website without any kind of TA.

82. With respect to the questions by Korea and Egypt on what sort of information should be published and how it should be published, there were various possibilities. Obviously, publishing all legislation and all regulations in one of the three official WTO languages would be an enormous burden for many Members, especially for those whose national language was not one of the official languages of the WTO. On the other hand, if the obligation was to publish the title of the measure, there would not be much point to that. Perhaps a viable solution would be to publish a summary of a given measure which was sufficiently comprehensive and clear so as to give a true picture of the practice and of the information required by the business community, as suggested by Korea. That could be supplemented by a system of consultation. Consultation and the possibility that those consultations be held by the implementing authority within a reasonable time frame would be essential. There was no point in having consultations if the replies came years afterwards. There must be some kind of minimal obligation that those consultations should lead to a timely reply within a reasonable period of time which Members could discuss. A broad time frame would be required for certain countries.

83. With respect to Paraguay's comment on the legal status of the responses, there were two extremes. One would be for the replies to be merely informational, with the other extreme being that the replies would be of a binding nature. Members had to be clear about that and would need to discuss it. Proposals on advance resolutions or decisions might depend on the nature of the subject area. For some delegations it would be easier to accept an advance resolution in the case of information about tariff classification, or other types of customs measures, which would be much more complicated in the case of other areas or other countries. There had to be a middle point. Extremes had to be avoided. There would be no point in a merely informative response. But Members would have to decide in which areas such a reply would be binding, subject to certain conditions, as a number of delegations had proposed. If the circumstances changed, the nature of a status of the reply would change accordingly.

84. Egypt had raised one or two questions about language and about legal status, which was an interesting issue. Argentina did not approach that in terms of creating a national website or of publishing given regulations in national sites as a substitute for official gazettes or national official bulletins. One had to be extremely careful in that regard. The official legal text would obviously be the text as published in the official gazette or bulletin. But if Members bore in mind the publication in the national website, it would not be the entire text, but a summary of the text, which was sufficiently clear and comprehensive.

85. Colombia had raised a question about the time frame of the implementation. That would obviously depend upon the needs and capacities of each Member. Argentina saw that not everybody had established a website. Some Members would need to create such sites, others would need to incorporate additional information. The undertaking would have to take into account the range of different starting points and different situations in Member countries to achieve the same results, but within different time frames. But all Members would be moving towards the same objective.

86. The representative of Japan introduced document TN/TF/W/42, explaining that it was an explanatory note on risk management which Japan, Mongolia, Peru and Chinese Taipei had proposed in document TN/TF/W/17 as a clarification and improvement of Article VIII. The note elaborated the concept of risk management and introduced the experience of Japan in applying that concept in, for example, customs procedures. The paper had been tabled since Japan was of the view that risk management was one of the key instruments to promote TF. It had also generated good questions and answers in previous NG meetings.

87. Occasionally, TF and appropriate border control were viewed as conflicting concepts where the strengthening of one would lead to the weakening of the other. However, both objectives were simultaneously achievable by conducting in-depth inspection on high risk goods and by allowing immediate import permits for low risk goods. Japan was of the view that such concept of risk management was an indispensable element to realize both TF and appropriate control at the same time.

88. The benefit of introducing risk management into trade procedures was already well recognized in various relevant organizations, for example, the WCO. Accordingly, the WCO already incorporated the concept of risk management in its existing tool for TF, as was the case for the Revised Kyoto Convention.

89. In the case of Japan, to effectively cope with the increasing volume of trade with the limited human and financial resources it had available, the concept of risk management had been introduced on a step-by-step basis in the field of customs procedures. For example, smuggling of import prohibited goods, such as drugs and firearms, was considered as a risk to customs administration for the danger it posed for social stability and public health. To effectively cope with that risk, customs accumulate past import records and relevant information for each importer in an integrated and organized manner. Next, for individual import declarations, on the basis of the matching of accumulated records with risk indicators that were likely to help in detecting smuggling, such as importer name, type of good declared, volume and value of the good, and the source of the good, customs decided whether or not to conduct in-depth inspection of the declared goods. In a case where the risk was considered to be low, an immediate import permit was given for the declaration. There was feedback of results for each case that allowed for the assessment of risk based on the latest information in subsequent import declarations.

90. Such routine had allowed customs to simultaneously pursue the policy objective of facilitation and control. Furthermore, in the case of Japan, with a view to realizing both objectives in a more efficient manner, Customs Intelligence Database System, CIS, had been introduced in 1991 for accumulating information pertaining to import declarations. Japan wished to reiterate that the concept

of risk management was also applicable in export procedures and other trade procedures, such as quarantine.

91. Introduction of a risk management concept had enabled Japan to implement various trade facilitation measures for the legitimate flow of goods. To name a few of those measures, in 2001, a simplified declaration procedure was introduced, which allowed release of goods before declaration for customs duty payment. In 1991, a pre-arrival examination system was introduced, which allowed for the completion of customs procedures before the arrival of goods.

92. The result of introducing such measures had led to a substantial reduction of the time required for the release of goods as was shown in Annex 1 of TN/TF/W/42. The survey measured the time required from the port of entry of the goods to its import permission. As shown in the graph in Annex 1, in 1991 it took 7 days to process the good up to import permission. It went without saying that appropriate customs duty collection and efficient control against import prohibited goods had also been maintained. According to a survey conducted by a private sector in Japan, it was reported that not only the use of IT but also the introduction of improved import/export procedures had greatly contributed to such reduction of time required for release of goods.

93. Lastly, in recognition of the benefits of risk management and of conducting a time release survey to measure how much trade had been facilitated, Japan had been providing TA in those areas to developing countries on its own initiative or in cooperation with the WCO. In that context, Japan informed that it was planning to hold an informative event that Thursday with Korea, Peru and Chinese Taipei to further familiarize Members with the concept of risk management and to answer any questions on that concept. As for the time release survey, Japan was happy to respond to Members' requests for more details of that survey if they so wished.

94. The representative of Chinese Taipei introduced paper TN/TF/W/44. In Chinese Taipei's first communication (TN/TF/W/10), five possible measures had been proposed to improve Articles VIII and X, with a view to further speeding up the movement, release and clearance of goods. One of those five proposals was to establish a mechanism for the speedy clearance of express consignments. Chinese Taipei noted that other Members had raised similar suggestions, for example in the communications from the United States (TN/TF/W/15) and Peru (TN/TF/W/30), as well as in the paper from Turkey (TN/TF/W/45).

95. For the benefit of WTO Members, Chinese Taipei's paper focused mainly on sharing first-hand experiences in establishing that system in a way that satisfied the needs of the various trading communities, especially SMEs which often had to survive on very tight profit margins. The longer customs clearance took, the higher the costs traders had to bear.

96. To better understand the needs and priorities of trade communities, Chinese Taipei had recently conducted a survey among several hundred stakeholders, including manufacturers, traders, brokers and forwarders. The survey had found that more than half of those interviewed placed "Immediate Clearance of Express Consignments" among their top three priorities, with as many as one quarter of the total sample considering that as the most needed measure of all.

97. The most useful international guidelines produced so far on the subject of implementing expedited customs procedures were originally called the "*WCO Customs Guidelines for Express Consignments Clearance*", and which, in 2000, had been amended and re-named "*Guidelines for the Immediate Release of Consignments by Customs*". Chinese Taipei would recommend that Members applied the main principles of those Guidelines. Chinese Taipei then illustrated six major principles in its communication.

98. With the pace of modern business accelerating day by day, demand for faster delivery of consignments increased exponentially. The needs of traders for expeditious clearance could no longer be met by regular customs procedures. In response to those demand trends, Chinese Taipei had first enacted the relevant regulation in 1995 and had accordingly set up an "Express Handling Unit" and had started operating. APEC also recognized that trend, as reflected in the WCO Guidelines on Express Consignment Clearance, the international standard procedure for clearance of goods. Working in partnership with the express industry association, the matter was listed as one of the items of APEC's "Collective Action Plan" (CAP), so as to further the Cooperation's TF goal. Accordingly, Chinese Taipei made a commitment to fully implement the WCO Guidelines by the end of 2000. With technical assistance from APEC/SCCP as well as with Chinese Taipei's customs hard work, Chinese Taipei was able to meet all the above-mentioned principles, as approved by APEC.

99. The benefits of having implemented the express clearance system had been widely recognized and appreciated by traders. The average clearance time had been dramatically reduced, from 48 hours in 1996 to a mere 2 hours today. That meant huge savings in time and related costs for traders engaged in international trade.

100. In addition, the volume of express entries increased sharply in the period 2001-2003. While regular import/export entries grew by 11.4 per cent, express entries increased by an impressive 58.7 per cent. The ratio of express entries to total entries also rose steadily, from 71 per cent in 2001, to more than three quarters in 2003. Three out of every four import/export entries required express services, which was clear evidence of the strong demand for express clearance services.

101. The cost of setting up an express clearance system mainly hinged upon the degree of business demand and the existing customs facilities. In the case of Chinese Taipei, overall there was no need for major new personnel recruitment. Customs might consider cooperating with existing express service providers to share some of the initial infrastructure costs. Some operational costs might also be borne by express shipment providers.

102. From an exchange of views among Customs officials and express operators, it emerged that, while agreeing that strong political will had been the most important element in ensuring the success of the express clearance system, they would list the following factors as all being important contributory elements: political commitment; good preparation; teamwork; close partnership with industry; and application of automated systems. Chinese Taipei wished to stress that while automation could definitely improve efficiency and effectiveness, one might still do without it, at least at the preliminary stage of implementation.

103. A successful outcome to the negotiations hinged upon whether the amount of TA&CB sufficient for the needs of Member countries could actually be provided. In that context, the TA Programme of the APEC Sub-Committee on Customs Procedures could provide a useful reference for WTO Members wishing to implement an express clearance system in compliance with the *WCO Guidelines*. Based on its own experience, Chinese Taipei believed that a phased approach, supported by sufficient and effective TA, would be the most feasible way to proceed. Technical assistance could be arranged via relevant international organizations or the WTO. Experienced Members could also offer their national experiences on a bilateral basis. Alternatively, they might choose to team up with relevant international organizations and/or interested private operators to develop a programme.

104. Chinese Taipei believed that the needs of traders were well served by the express clearance system and, with appropriate TA, all WTO Members could develop the capacity to institute such a system.

105. The representative of the European Communities introduced the EC's latest submission, explaining that most of its proposals and ideas could have been seen before when the EC made its

proposals on Article VIII in the period between Doha and Cancún. Only a limited number of the proposals were brand new, and many of them had also been made by other Members.

106. Article VIII was a fairly fundamental Article of the GATT and of the current negotiations. It could certainly bring important benefits to businesses if one could make some of the provisions of that Article more operational. Article VIII recognized the desirability of reducing import and export procedures but did not require them to be simplified or reduced, nor did it give any guidance about how they might be reduced. It was time now to try to improve the Article by making it more operational.

107. First, the EC proposed that Members consider some general commitments, very closely modelled on what was already familiar in existing WTO Agreements, notably the SPS and TBT Agreements, especially in designing Members' import and export procedures. The aim was to make them as least restrictive as feasible, bearing in mind the need to respect other policy objectives, and that they were based as far as possible on international standards.

108. The second section of the EC paper focused on ways to simplify data and documentation requirements which were, as others Members had pointed out, particularly problematic for SMEs. The EC thought it would be useful if Members could undertake to simplify their respective customs data and documentation to the minimum possible. Second, it was proposed that Members based their documentation and data on existing international standards which would be prepared for that purpose. In particular, the UN [EDIFACT] standard, the UN Layout Key and the WCO Data Set had been identified as three international standards for simplified data and documentation used by customs. Many Members used those standards already. For example, the European Communities and all of their ACP partners based their trade on that common set of standards both for format and content of their customs declarations. The EC also wished to propose the progressive implementation of the so-called Single Window, the principle of a single, one time submission of data and documents to one agency which would normally be the customs. However, the EC thought it to be a necessary caveat that those commitments had not to be excessively rigid. In practice, it would be very difficult for countries of every level of development to implement a Single Window. Members had to reduce the requirements and move towards a Single Window. Nevertheless, some flexibility would be needed and the commitment had to be more towards a process of progressive improvement rather than a final outcome.

109. The same was true of the ECs proposal for Members to introduce and publish their domestic standard processing times for customs release. The EC did not think it would be feasible, or desirable, for Members to adopt a single harmonized standard for time release. That was simply not possible. Therefore, Members should at least adopt their own domestic standard time release periods and commit progressively to trying to reduce that. That in itself would be a useful outcome.

110. The third area the EC focussed on in their paper was to reduce and simplify import and export formalities *per se*. In particular, the EC would welcome a commitment to implement the key provisions of the Revised Kyoto Convention, although the EC did not think that it should be an absolute obligation for Members to accede to Kyoto. The EC joined many delegations in proposing a number of simplified procedures that delegations might consider, notably for pre-arrival processing of consignments and the possibility of simplified procedures for compliant traders.

111. The EC saw merit also in removing the obligatory use of customs brokers. In a small number of countries, the use of customs brokers was absolutely binding under law. The EC did not see the need for that and proposed that a company should have the choice between lodging their customs declarations directly or going through customs brokers, who tended to monopolize the market and represented an additional cost, notably for SMEs.

112. The EC echoed the proposals made by China, Japan, Korea, and others, on the value of risk analysis. The aim was that, through risk assessment, one allowed customs to concentrate limited resources on the most suspect shipments while allowing legitimate trade to flow. In practice, all Members were carrying out some kind of risk assessment at the border because it was simply not possible to inspect a hundred per cent of shipments. The notion of authorized traders went along with the notion of risk analysis.

113. Other proposals had been made in the paper, but because of time constraints at the present meeting, the only other point the EC wished to flag was the suggestion that one of the Group's aims could be to see the abolition over time of official pre-shipment inspection (PSI) systems. If the Group was successful in finding measures to improve the capacity of customs administrations around the world, then official PSI should naturally no longer be necessary. PSI could be an obstacle to trade. It was meant to be temporary, but was in fact becoming permanent in certain parts of the world, and it represented costs both to the exporter and to the importing countries who were forced to rely on PSI systems pending the improvement of their domestic customs administration. Therefore, the EC proposed that consideration be given to phasing out of PSI over time.

114. The second half of the EC paper related to SDT and other matters. An attempt had been made to draw the linkages between the commitments proposed, TA, and other kinds of flexibilities that were part and parcel of the proposals.

115. The representative of Norway said that Norway was strongly committed to avoiding unnecessary procedural barriers to trade. Thus, the further development of Article VIII was one of its main priorities in the negotiations.

116. In Norway's communication on border agency cooperation (TN/TF/W/48), it had provided information on its experience with the customs border cooperation between Norway, Sweden and Finland. The current paper was not a proposal, but merely an "experience paper" and aimed at providing food-for-thought on how cooperation among Members could be developed, and what benefits could arise from it. Norway also believed that elements of its experience could benefit greater cooperation between different border agencies at a regional, as well as domestic, level.

117. Cooperation between the three Nordic Members was based on the simple idea that the national border authorities of each country allowed to provide services and exercise legal powers not only on behalf of their home state, but also on behalf of their neighbouring states. For example, in Norway, Norway did work both for export of goods out of Norway and imports of goods into Sweden or Finland. That division of labour saved time, money and human resources both for the border authorities and for the economic operators. The described border cooperation had developed gradually over the years to become the integrated service existing to date.

118. The paper described in detail how that joint border cooperation was carried out, listed facts on the agreements that governed the cooperation, and the results were of that cooperation. The paper also provided an estimation of the resources that had been saved both by the government as well as by the traders at the Norwegian side of the border.

119. The administrative cooperation between the customs administrations of the Nordic countries made it possible to plan the future and harmonize to the extent possible procedures, as well as TA. As the Nordic countries were small with limited resources, Norway had found it necessary and useful to join forces when contributing to TA&CB. That had been done by allocating human resources and economic funding to various projects coordinated by the WCO. The Nordic customs administrations appreciated the work done by the WCO in this respect.

120. The representative of China introduced the China-Korea proposal on risk management (TN/TF/W/49), saying that the concept of risk management had long been recognized by the international customs community. China's experience had shown that there were substantial benefits to its administration both in terms of effective fulfilment of customs duties and in terms of cost efficiency in administrative expenses. Moreover, many customs administrations had already realized that that technique had become an integrated part of their modernization approach. The goal of providing stakeholders other than customs with the benefits of shorter clearance time and lower trade costs could not be ignored. China and Korea, based upon those observations, therefore wished to propose their ideas on risk management as a clarification and improvement to GATT Article VIII, especially its aspect on import and export formalities.

121. China proposed to apply risk management techniques to the customs operation processes at different stages where considered appropriate. With the enterprise classification system, enterprises with a good compliance record with customs might enjoy more convenient treatment, such as pre-arrival declaration, fast clearance, release upon guarantee, etc. During the process of clearance, customs was able to release a majority of goods with low risk and focus on high-risk goods through risk assessment and analysis. After clearance, customs could use audit measures to ensure effective control. Any problems and risk information found during the audit would be fed back to relevant branches of Customs. That way, a close risk management chain was formed to facilitate the movement of goods while keeping effective customs control.

122. Generally, risk management should not result in huge costs to Members with existing technological and management conditions. However, its application required certain investments in the areas of infrastructure, staff training, and coordination and cooperation among relevant border agencies. Therefore, TA&CB support were necessary to help developing Members conduct self-assessment in risk management as well as implement future rules. Longer transition periods and other necessary flexibilities should also be granted to those Members in the implementation stage.

123. The proposal was not exhaustive. China hoped that Members could work together to find effective and feasible measures to establish and consolidate their risk management regimes in their administration of trade. China would be happy to share its experience with other Members in that regard.

124. The representative of Korea said that, in order to avoid repetition in explaining the content of the joint China-Korea paper, Korea simply wished to highlight the intention of the paper while also providing some explanation of Korea's national experience on risk management.

125. He recalled that Korea's proposal on Article VIII (TN/TF/W/18) had already stated the importance of risk management and related measures such as pre-arrival processing, post-clearance auditing and authorized traders, and reduction of the requirements for less risky goods. The joint paper stressed the use of risk management which was an efficient and fair measure for the purpose of simplifying and modernizing import and export customs formalities. Many ideas were noted in that paper, including the establishment of a risk management platform by adopting advanced information technology, different treatment for commodities with different risk levels, enterprises classification coincided with Korea's position on risk management. On many occasions, Korea had committed to adhering to the Revised Kyoto Convention. In relation to risk management, in 1989 Korea had introduced a selected inspection system. Korea had incorporated risk management in areas such as import cargo, export cargo, audit revenue and drawback selective system and other areas of passengers, as well as with respect to surveillance.

126. The representative of Switzerland commented on the papers by China and Korea, and by Japan, and said that the introduction of controls adapted to risk was one of the most powerful means of speeding up customs clearance. It was thanks to that concept that the rate of control had been

drastically reduced without sacrificing efficiency. In Switzerland, the overall rate of control for goods was under five per cent. Sensitive products such as tobacco and alcohol, or products that were sensitive from a medical or phytosanitary point of view, were controlled more frequently, while normal goods were controlled at a very low rate of about one per cent. That was why Switzerland welcomed the two submissions on that subject. They had the merit of being very clear and practical, and of referring to the good practices included in international conventions and recommendations. Switzerland had introduced the first four elements proposed in the communication from China and Korea, and Switzerland's experience had been very positive. Switzerland therefore recommended that those elements be taken into account in the negotiations. The fifth element proposed – enterprise clarification – was not a system that Switzerland applied. In fact, the system that was applied, which partly incorporated the spirit of that element of the proposal, was that of the authorized consignor and consignee, a concept mentioned in the submission by the European Communities.

127. That latest EC submission contained a multitude of key elements, some of which had already been covered by the submissions of other Members. Switzerland wished to take up the concept of authorized consignor and consignee.

128. In Switzerland's view, that procedure was significant in enhancing the fluidity of trade. It was a procedure that fitted in very well with Switzerland's system of transshipment of goods in that it had created a situation in which both traders and the State stood to gain. In Switzerland, the authorized consignor and consignee open customs warehouse procedures had one thing in common: namely, they allowed for on-site customs clearance. That meant that the export, transit and import formalities could be conducted without placing the goods under customs control at the office of departure or destination. Any customs control would, in principle, also take place on-site. The decision as to whether controls should be conducted or not was left to the customs office responsible for the procedure in question within a given time-limit.

129. In the case of exportation, the exporter was thus able – without any waiting time at the border – to determine the exact time of exportation and to efficiently organize the means of transport, since it was possible to calculate the time required to load for the goods.

130. In the case of importation, the authorized consignee notified the arrival to the customs control office, which immediately decided whether the goods must be unloaded in the presence of the customs services. The short control times enabled the trader to make optimum use of the modes of transport, facilitating reallocation.

131. The main advantages of those procedures were: (i) increased time flexibility. There were no timetable constraints. Subject to certain conditions, the goods could be brought or removed outside the opening hours of the competent customs office; (ii) geographical autonomy with respect to the customs office. The shipments did not have to be brought to a customs office. Optimum use could be made of existing infrastructure for the transshipment of goods; (iii) faster customs clearance and reduced downtime for vehicles thanks to the fact that the processing time was known. That meant that vehicles would be more readily available.

132. For the customs partners and the customs administration, those procedures constituted a flexible instrument which satisfied the current requirements for the traffic of goods.

133. How did one become an authorized consignee or consignor? The customs administration granted authorizations subject to a number of criteria. The trader must: (a) regularly ship or receive goods; (b) designate a specific site or location where the goods to be shipped or received could be placed under customs control; (c) post a general bond to guarantee the payment of fees; (d) allow verification of the progress of the shipment and the customs status of the goods at all times and without fail, from their arrival until their removal; and (e) be domiciled sufficiently close to the

competent customs office for the controls to be made without any disproportionate administrative work.

134. The Norwegian submission on customs cooperation mentioned an agreement concluded between Switzerland and the EU. While Switzerland had not experienced the kind of cooperation described in the submission which involved the delegation of competence to neighbouring agencies, Switzerland had increased its cooperation with its neighbouring countries. That cooperation had several facets: for example, the contracting parties to the agreement recognized the controls carried out and the documents issued by the competent authorities of the other contracting party certifying that the goods met the conditions laid down in the importing country's legislation or the equivalent conditions in the exporting country, without precluding the possibility of conducting spot checks.

135. That cooperation also involved, *inter alia*: (a) the development of border posts in order to meet traffic requirements; (b) the transformation of border offices into adjacent control units, where possible; (c) the harmonization of competences of border posts and offices on either side of the border; and (d) the search for appropriate solutions to resolve any difficulties that were communicated. This was not an exhaustive summary of the agreement, but merely a sample list.

136. The representative of Chinese Taipei said that Japan's proposals on risk management were very useful. Japan had mentioned that the application of such a concept had enabled them to implement various trade measures to facilitate the legitimate flow of goods, while at the same time taking appropriate action against illegal transactions or the movement of goods.

137. The joint proposal by China and Korea made clear that, through the application of risk management methods, the most compliant traders or low-risk commodities could be granted the simplest and fastest clearance treatment by customs authorities. Moreover, the concept of risk management might be applied throughout the customs clearance process, from supervision and control, to post-clearance audit, classifications, and valuation.

138. Chinese Taipei placed a great deal of importance on both proposals. The whole subject of expediting clearance operations without jeopardizing national security had become a major challenge for customs. There was no doubt that the application of risk management could help meet the challenges. In Chinese Taipei's experience, targeting high-risk consignments for physical examination using risk management techniques could not only ensure the normal flow of legitimate goods and passengers, but could also help to effectively crack down on illegal trading practices.

139. The first part of the EC's communication contained 15 proposals aimed at improving Article VIII and at making that Article more operational. In general, Chinese Taipei welcomed those suggestions. The use of relevant international standards and instruments had to be emphasized. According to a recent survey among several hundred of their stakeholders, including manufacturers, traders, brokers and forwarders on the issue of TF and what those stakeholders would like to see coming out of the negotiations, not surprisingly, of all the possible outcomes, the one they desired most was "to establish a harmonized international rule on customs procedures". It would be most beneficial if Members could identify and agree on exactly which international standards and instruments were to be used as a reference.

140. In addition, Chinese Taipei agreed with the EC's proposal to eliminate the pre-shipment inspection arrangements. The PSI system was particularly troublesome when there was no PSI agent present in the exporting country. The exporter then had to go to the designated PSI agent in a neighbouring country – and that cost exporters more time and money.

141. Norway's sharing of their experience with their border agency cooperation was very interesting, and Chinese Taipei hoped that that kind of system could one day be adopted by Members.

142. The representative of Malaysia wished to provide some preliminary comments on new submissions for Article VIII, particularly on the paper sponsored by Japan, China and Korea, and also on the input by Chinese Taipei on express clearance, particularly on risk management. Malaysia commended Members on their efforts in sharing experiences on risk management and express clearance systems. Malaysian customs authorities had implemented the system and believed that it had greatly benefited in enhancing clearance of goods at entry points. Malaysia wished also to share and explain its work experience in implementing the system.

143. In that connection, Malaysia wished to impress that when Malaysia was in the process of developing the system, it had had to go through a strenuous and lengthy educative process, since risk management and express clearance systems could be very technical. In that regard, it was important to have extensive and appropriate TA&CB support and programmes to ensure that not only the proper and suitable technology and process were available for the operation, but also the much needed training for human resources and skills which were equally critical, if not more so, since the level of expertise of handling technology and processes would determine the success of the application of the risk management system. Malaysia commended the sponsors of that proposal on their decision to provide TA through seminars that would be conducted in the near future.

144. The representative of Canada commented on Japan's submission on risk management and said that Canada supported the important point that risk management techniques were relevant for ensuring compliance and maintaining effective controls as they enabled authorities to identify areas of concerns and optimize the use of resources, devoting those resources to where they were most needed. Canada also drew attention to the role that increased use of risk management techniques played in the current efforts of the WCO's high level strategy group to develop a framework of standards to secure and facilitate global trade.

145. Canada looked forward to exchanging views with Members on whether incremental or progressive approaches might be feasible regarding implementing risk management measures. One approach could be to have measures initially applied on the basis of a single programme review such as, for example, on valuation, origin or customs classifications, depending on the priorities of individual countries.

146. With respect to the submission from Chinese Taipei, Canada wished to emphasize the valuable contribution the submission made in addressing the important topic that Canada had previously characterized in G/C/W/397 as express clearance or immediate release of consignments. Canada saw the relevance of many of the principles suggested by Chinese Taipei, not only in the context of express clearance, but also in the context of other proposals submitted in the NG to date.

147. Canada would welcome further discussion of the proposed phased approach to TA&CB that Chinese Taipei had raised. One element Canada found particularly interesting was the dispatching of assessment missions to identify areas for improvement. Canada would appreciate hearing views on what parties might best be suited to conduct those missions. In addition, Canada would be interested in hearing Members' views on the applicability of a phased approach more generally to measures other than express consignments.

148. The representative of Hong Kong, China wished to offer preliminary comments on the papers from the EC as well as from China and Korea.

149. Hong Kong, China welcomed the EC's paper on Article VIII and the provision of SDT and TA. With respect to the suggested general commitments, Hong Kong, China supported the principle that formalities and requirements should be no more administratively burdensome and trade restrictive than absolutely necessary to achieve their legitimate objective. To facilitate deliberations, Hong

Kong, China would appreciate if the EC could further elaborate on the notion of "design and effect of export and import procedures".

150. Hong Kong, China also supported the principle that a measure should not be maintained if the circumstances or objectives giving right to its adoption no longer existed. The measure should not be continued if the circumstances or objectives could be addressed in a less trade restrictive manner. Hong Kong, China welcomed further discussion on the proposal with a view to arriving at reasonable, meaningful and enforceable WTO commitments.

151. On the suggested provisions on data and documentary requirements, Hong Kong, China generally welcomed the standardization of data and documentary requirements as a TF measure. International standards for data elements and data requirement should be adopted by individual Members as far as possible. However, Hong Kong, China was aware that that might be a long process and that it might require major reviews by individual Members. Hong Kong, China welcomed further discussion on the acceptance of copies and commercially available information with a view to exploring whether reasonable, meaningful and enforceable WTO commitments could be established.

152. With respect to the suggested provisions on customs and related import and export procedures, Hong Kong, China again welcomed further discussion on the issue with a view to exploring whether an enforceable WTO commitment could be established. On the commitment to non-discrimination in terms of requirements and procedures applicable to like products irrespective of their mode of transportation, Hong Kong, China sought clarification on exactly what improvement of Article VIII with respect to non-discrimination was envisaged. It would be helpful if the envisaged commitment could be set out and relevant examples given, especially on how the concept of like products should be relevant in the ongoing negotiations.

153. Hong Kong, China welcomed the China-Korean paper on risk management. Hong Kong, China generally agreed that the proper application of risk management could speed up customs clearance, improve administrative costs and efficiency and enhance traders' compliance rates. Hong Kong, China also agreed that Members, especially developing and least-developed ones, should identify their needs and priorities in relation to the possible implementation of risk management. Such an assessment would be a very good basis for Members' consideration of possible TA&CB. While it might not be easy to come up with concrete, meaningful and enforceable commitments for risk management, Hong Kong, China appreciated the discussions that were presently taking place on that matter. It would be very helpful if the actual commitments could be more clearly defined to see if they were practical.

154. The representative of Turkey raised a question concerning Japan's submission on risk management in relation to time release. Did Japanese customs declare a standard release time? If so, in case of high risk consignments, how did Japanese customs explain to the trader the reason for longer clearance times beyond the standard time? And, what kind of information was provided to the trader in explaining the reason of longer time clearance?

155. The representative of the European Communities said that the proposal from China and Korea was one of the most important proposals made so far in the negotiations. The EC welcomed and supported it. China and Korea identified well one of the most important ways in which one could not only speed up trade but also reduce the cost to governments of managing the borders through a more efficient allocation of customs resources. The proposal was a good answer to the concerns that some Members had expressed about the costs of certain TF measures.

156. Risk assessment was a cost reduction measure. Members should all welcome that. China and Korea made a related proposal regarding an enterprise classification system, something delegations had called systems for recognizing authorized traders. The EC called them authorized economic

operators. The EC considered it to be a good idea that Members started to introduce systems of rewarding compliance and honest and efficient traders with simplified, faster procedures. It would be useful in the WTO that, where those systems existed, the criteria Members applied for authorized traders were transparent and objective in the sense of it being possible for companies of any size to qualify as authorized traders. Currently, it was the EC's impression that in countries where the systems existed, which was an increasing number, it was multinational companies who utilized those simplified fast track facilities. One had to be sure that the criteria applied for granting the status of authorized traders should not be such as to exclude smaller companies if they were equally compliant.

157. On the Norwegian paper, the EC was of the view that it was very useful that Norway shared their practical experience with Members. The very long-standing regional arrangement was underpinned now by an agreement between the European Communities and Norway. The EC wanted to encourage and facilitate those kinds of arrangements. The European Communities had the impression that the border cooperation set out in the paper was the exception rather than the norm around the world. There was massive potential for that kind of sharing of border resources to be applied in every corner of the world. The cost-reduction potential of pooling border resources was enormous. The European Communities wished to look at how this kind of concept could be made operational within the negotiating work Members were involved in. In particular, one should discuss what kind of commitment, if any, could be made on the question of sharing of border resources. Would it be simply a general encouragement to Members to take a look at the idea and talk to their neighbours to see whether it could be done, or should there be some kind of clearer requirement with exceptions? The EC recognized that, for many countries, that kind of border cooperation would be quite ineffective and perhaps particularly difficult. But, if Members only had a very general inducement to look into it, then it would perhaps not lead to changes on the grounds of the cost savings that those changes would bring. The EC wished to hear Norway's views on the extent to which, in their experience, the kind of border cooperation depended on the existence of more or less common standards and rules on each side of the border between the administrations applying the system. Obviously, through the negotiation process, Members were able to encourage more standardized international procedures and more standard ways of operating at the border based on international standards. That in itself would be a very good element to make it easier for more Members to implement the kind of border cooperation existing at the Nordic borders.

158. The representative of Singapore said that the various proposals on Article VIII served as useful resources for Members' work.

159. Risk management could make a direct contribution to facilitating trade. In that connection, Singapore broadly concurred with the various elements in the papers by both Japan and China, and Korea. Singapore noted that some of the proposals contained in those papers also stemmed from the APEC TF principles, such as the principle of modernization and the use of new technology. Risk management was also expressly provided for in the manual of actions and measures under the APEC TF Action Plan.

160. The EC paper contained various interesting elements. Most of them would improve the operationalization of Article VIII. However, Singapore had two specific questions on the EC paper. The first question arose from section B, paragraph 6. The EC had proposed the "*introduction by each WTO Member or customs union (...) of a uniform customs code or similar customs legislation, as well as a single import and export declaration, administrative message or data set*". It was not very clear to Singapore what was meant by "uniform customs code" in the context of individual WTO Members. Was it just to have a coherent body of legislation and regulations?

161. The second question related to section C, paragraph 9. The EC proposed "*a commitment to non-discrimination in terms of requirements and procedures applicable to like products irrespective of their mode of transportation*". Singapore agreed with the EC that there should be neutrality in

respect to the application of non-discrimination obligations for the various modes of transportation. However, as the EC had also recognized in its proposal, the different modes of transportation had their own particularities. Therefore, the requirements and procedures for different modes were unlikely to be identical. It would be appreciated if the EC could elaborate on how to determine whether there had been discriminatory treatment and how the notion of non-discrimination could effectively be operationalized with respect to the various modes of transportation.

162. The representative of New Zealand welcomed the new papers, especially those that involved the sharing of national experience, which increased the knowledge-base of the NG and also helped educate those least familiar with the practical implications of the underlined proposals.

163. As for the EC paper TN/TF/W/46, New Zealand agreed with the starting premise that Article VIII could, and should, be made more operational. New Zealand agreed with the EC that none of the ideas – with one possible exception – were new. Rather, they represented a clarification of earlier proposals. That suggested that Members were making progress and were moving beyond pure issue identification towards clarifying and developing the proposals on the table.

164. New Zealand very much supported the application of core GATT principles to TF measures, such as the principle of non-discrimination, and that TF measures should be not more trade restrictive than necessary to achieve legitimate objectives. New Zealand would be interested in hearing more from the EC about what particular legitimate objectives they had in mind in that context.

165. Secondly, New Zealand was interested in the proposals relating to the harmonization and standardization of import/export formalities, in particular, as regards standardization of data requirements using international standards. That was something New Zealand had proposed first in its submission TN/TF/W/24 and also in a submission co-sponsored with Norway and Switzerland (TN/TF/W/36). New Zealand also welcomed the reference to introducing a requirement for objective criteria for tariff classification, which had also been covered in a previous New Zealand proposal (TN/TF/W/24).

166. The representative of Kenya welcomed the proposals on Article VIII, in particular the submissions relating to risk management (TN/TF/W/42 and W/49). Kenya shared the views expressed on the benefits associated with the adoption of risk management programmes within customs. However, Kenya's experience had shown that adequate information and communication technology (ICT) infrastructure was essential for introducing modern practices such as risk management. Often, in countries such as Kenya, inadequate ICT infrastructure and human resources presented a major challenge for customs authorities in introducing the best controls. There were also other challenges that had to be taken into account, such as lack of a comprehensive central database which was key to a successful risk assessment profiling programme. TA&CB was therefore critical in that area.

167. Another important aspect was the need for an enabling environment required for audit-based controls. In diverting control attention from the border to commercial records of individual companies, customs had to be satisfied that companies had proper records and were registered and supervised for that purpose. Customs would also need to have access to information on the overall compliance record, the companies' financial situation and their best performance in dealing with customs. In countries such as Kenya where the majority of the importers were in the informal sector and where physical location and proper records of the participants in the sector were lacking, the introduction of audit-based controls in one step presented a major challenge. Even in those cases where a record existed, there was usually a lack of legal power for the customs to access the information.

168. Another important point Kenya wished to seek clarification on from Japan, China and Korea was whether they envisaged a uniform system of risk management in view of the fact that national and customs priorities might vary widely among the Members. In terms of SDT, Kenya's experience had shown that the SDT suggested in TN/TF/W/49 in terms of longer transition periods for the implementation of the suggested measures was not appropriate. In the absence of adequate TA&CB, the next alternative would be an exemption from implementing such measures.

169. On the submission by Norway, TN/TF/W/48, Kenya also believed that for border cooperation to take place, the Members involved must have achieved a certain level of harmonization in their customs procedures and practices. Therefore, it would be interesting to hear from Norway the extent to which harmonization in custom procedures had been achieved among the Members before the particular custom protocol operations had been adopted.

170. The representative of Jamaica said that Trade Facilitation was an integral aspect of Jamaica's economic development and must be done without compromising the nation's security or economic well-being. Some of the measures pursued by Japan such as risk management techniques were also being pursued in Jamaica despite the constraints Jamaica was facing in that context. Jamaica's pre-arrival processing, for example, provided adjusting time effects for cargo belonging to those importers who needed them right away. But Jamaica's risk management operations faced major constraints. Those areas could be quite challenging. Therefore, Jamaica welcomed the further sharing of experiences in that regard. The area should be one of the targets of TA&CB.

171. With respect to document TN/TF/W/44 by Chinese Taipei, Jamaica welcomed the information provided on the experience regarding express consignments. Jamaican Customs authorities realized the importance of speedy clearance of goods and had a number of procedures in place for that purpose, such as procedures for the speedy clearance of perishable goods and a fast-track mechanism for brokers whose error rating was 5 per cent or less. The turn-around time for fast-track entries was two hours.

172. Regarding the suggested simplified declaration of low-value consignments, it might be necessary to clarify the term "necessary" appearing before the word information. Jamaica would also like to be clear on whether it was envisaged to have two declaration forms for goods, one for low-value and one for high-value consignments. It was far simpler to have one standard declaration form.

173. The suggested adoption of the principle of risk management was agreeable. Jamaica had a risk management system in place, although there was a need to strengthen it in terms of practical resources and in terms of additional personnel.

174. Periodic declaration might be difficult given the climate of non-compliance in some countries. Financial guarantees might prove very difficult as well, especially in Ministries of Finance, as non-payment of duty was a sensitive issue for many Members given the importance of customs duties for revenue collection. It also might increase incidences of non-compliance. Jamaica agreed, however, on flexible customs hours of operation. In Jamaica, all customs departments operated 24 hours, seven days a week, including on public holidays. The working hours at the ports were also very conducive to speedy business operations.

175. Overall, it was recognized that the adoption of some of those guidelines might prove onerous for some customs authorities. The high degree of non-compliance might affect the operation of some of those principles. In addition, it was important to maintain a certain level of control and to adopt certain binding commitments on some of the foregoing so as not to take control away from the customs authorities. The issues of revenue and security were also important in that context. However, Jamaica wished to underscore that greater ease in clearing express consignments was a good overarching principle to be adopted by Members.

176. The representative of Norway said that the EC paper on Article VIII referred to several key elements. GATT Article VIII was not fully operational despite recognition of the need for minimizing the incidence and complexity of import and export formalities and for decreasing and simplifying import and export documentation requirements. However, it did not require any such reductions nor did it indicate how to achieve it. Secondly, it stated that many Members were keen to see the establishment of a set of WTO provisions that would set all WTO Members on an agreed path of modern and simplified procedures, taking full account of international standards and work done by other international organizations. Lastly, it stated that any measures restricted trade as little as possible without affecting Members' right to achieve other legitimate policy objectives. Norway agreed with that.

177. The EC paper reflected some of the ideas Norway had been working on in the submission with New Zealand and Switzerland on simplifying, reducing and standardizing trade documents. The aim of the proposals tabled at the last meeting was two-fold: to identify the need for a standardized format for documents accompanying shipments and for a reduction in the number of documents required. The intention was to clarify and improve Article VIII to make it more operational. Norway's starting point had been that the application of international standards in trade documentation would greatly benefit developing countries and SMEs. The question Norway had asked itself in drafting the document was what could help proliferate those standards. Norway had therefore suggested to agree on the use of standardized document formats for export, import and transit of goods. It should be available in several different languages to ease the work of traders and customs authorities. In order to maximize the benefits of standardized documents, Members should further discuss the use of standard data elements in the documents. Norway had also put forward the idea of a bank of standard documents that could be accessed by anyone and in the language needed. Norway did not propose that the WTO develop standard documents. That should be left to organizations best suited to carry out such a job such as the International Maritime Organization and others.

178. Thus, Norway agreed with the commitment to non-discrimination in terms of requirements and procedures applicable to like products irrespective of their mode of transportation as mentioned in the EC paper. Norway did not suggest that the WTO should develop standard data elements, which should also be left to organizations best suited to carry out such a job. Norway was working on developing core aspects of its submission.

179. The representative of Korea said that Japan's paper highlighted the importance of risk management. Korea appreciated Japan's definition of risk management as an indispensable element of TF while maintaining the appropriate contour. Korea fully shared Japan's experiences in that regard and had also similar experiences in the area of time release. The Japanese paper was another vehicle to move forward on the adoption of the concept of risk management.

180. The paper by Chinese Taipei was welcome. Express consignments had become an important factor of the current just-in-time trading environment and was of critical importance for traders, especially SMEs. Chinese Taipei's illustration of its experience with APEC's TA programme was also a helpful way of showing how that mechanism could be implemented.

181. In APEC, a Sub-Committee on Customs Procedures had been established under the Committee on Trade and Investment in 1994. The Sub-Committee's main objective was to facilitate trade by simplifying and harmonizing customs procedures in the APEC region. In 1995, APEC leaders adopted an agenda which set out the principles, process and sub-fora for a Collective Action Plan (CAP) towards achieving the global goal of free and open trade and investment. Customs procedures were one of the elements of the collective action plan. The customs administrations of the APEC region had achieved significant progress in streamlining, upgrading and harmonizing activities through these CAPs. They were implemented in three stages, from simple to more sophisticated ones. Furthermore, at the first APEC Sub-Committee meeting held in February in Seoul, Korea, two new

items were adopted, namely: time release measurement and adoption of implementation of the APEC framework based on the WCO framework of standards to secure and facilitate global trade. This Sub-Committee supported and pursued a partnership with the WTO, especially in the WTO TF negotiations through their TA&CB programme for customs administrations in the APEC region. The second Sub-Committee meeting would be held in Korea in September to further discuss TF matters.

182. With respect to the question on enterprise classification raised in Korea's joint submission with China, Korea was of the view that the ultimate goal of risk management could be applied in three areas: (1) goods; (2) persons; and (3) vehicles. One could discuss risk management methods for goods, for example with respect to time release, as well as with respect to persons. Korea saw enterprise classification as one of the ways for operators to apply risk management. The third element was vehicles, relating, for example, to aircraft or vessels. One could operate more differentiated surveillance for those vehicles, including aircraft, or vessels. Overall, Korea saw the issue of enterprise classification as one of the challenges Members had to meet, but it was open to including that concept in the TF negotiations.

183. The representative of Pakistan said that, in general, Pakistan appreciated all the proposals tabled. Pakistan especially supported Japan's proposal on risk management (TN/TF/W/42) and the proposal from China and Korea (TN/TF/W/49).

184. From its own experience, Pakistan felt that that was probably the best way to address the challenge of creating a balance between customs control and TF. It was the most efficient and effective way for the use of resources available in countries who already had resource constraints.

185. The EC proposal (TN/TF/W/46) was also welcome. It took a holistic approach for any future TF agreement, and the proposed application of core GATT principles and the incorporation of S&D provisions made the proposal a very positive and beneficial one. Pakistan especially noted with interest the EC's proposal that *"any future WTO provisions should therefore include a range of special and differential treatment provisions, including less onerous commitments for poorer developing countries, transitional periods for the assumption of commitments, and provisions regarding improvements in the supply of technical assistance."*

186. The representative of the United States said that the contributions were all good. The US noted with particular agreement the positive view taken on risk management and risk assessment. Certainly, there were a lot of elements that made up the process. The US also took note of the points made by Hong Kong, China. The United States equally looked forward to the elaboration of specific examples relating to concrete commitments in that area, as well as to some of the other proposals put forward by the EC. The US had questions similar to those already raised. The NG's work would be enriched by some specific examples being provided.

187. The representative of Japan, in response to Turkey's question on the publication of standard times for trade procedures, said that Japan conducted a time release survey every two to three years as shown in Annex 1 of its paper (TN/TF/W/42), and published the results of those surveys. It was useful for the trade community to understand the average time required for importing goods. However, Japan wanted Members to understand that that was not a binding target for the authorities. The trade community recognized that point as well. Therefore, when customs needed to carry out inspections on certain imported goods and the importer asked for the reasons for the delay, they were told that inspection was underway and accepted that explanation.

188. Regarding Kenya's question about the possibility for a uniform system of risk management, it was of course desirable to have a consistent approach for risk assessment. Some work was being carried out in the WCO in that area, and Japan looked forward to seeing further progress. However, fundamentally, Japan's view was that the actual way to implement risk analysis or risk management

differed from country to country, depending on the environment, risk profile and level of techniques available.

189. The representative of Turkey replied to questions raised, saying that there was no doubt that a ruling had to be consistent with, and based on, general rules. By using the word "case specific" while mentioning the conditions of advance ruling, Turkey meant the binding feature of advance rulings for the customs administrations was against its applicant. Turkey had been implementing such a system since 2000. Turkey evaluated each application for an advance ruling in its individual conditions, taking care to note the factors which might effect the decision such as country of origin, nature of the good, composition of goods, origin of inputs, etc., where applicable. "Case specific" certainly did not mean that an inconsistency in applying general rules might occur. Turkey shared Canada's view that the same conditions of two different transactions should deliver the same result.

190. In Turkey's case, binding tariff or origin rulings were binding on the customs administration as against the holder of the ruling only in respect of the tariff classification or determination of origin of goods, and only for goods on which customs formalities were completed after the date on which the necessary information was supplied by them. Binding origin rulings were issued in compliance with the general provisions regarding the determination of the origin of goods.

191. As for publicizing the relevant legislation on the Internet, Turkey was of the opinion that it was unrealistic to expect developing countries and LDCs to publicize all of their legislation in one of the official WTO languages. Some reflections in the NG had revealed similar concerns. Functional summaries of relevant legislation would be useful, but in cases where preparation of a meaningful summary was difficult, Turkey proposed the use of a keyword approach which had proved useful at the international portal on foods safety, animal and plant health.

192. With respect to the acceptance of copies, Turkey had proposed that as an example of Turkey's practices in case of invoices submitted to customs. Turkey was open to discussing the coverage of such a simplification – namely a list of documents, copies of which could, or could not, be accepted. Accepting copies did not mean that there was no need for the originals and the responsible authorities should at anytime be able to request them. In case of failure in a given period, administration could suspend the procedure and annul it. Clarification on the remaining questions would be offered at a later stage.

193. The representative of Chinese Taipei replied to Canada's questions and addressed the recommendations of a phased approach to address TA&CB. In 1997, APEC had agreed to implement the principles contained in the WCO Guidelines in relation to express consignment clearance, and had then listed them as one of the twelve items in the so-called Collective Action Plan for the 21-Members to further APEC's TF goal. Chinese Taipei had committed itself to implementing it accordingly. Later, an assessment mission had been carried out, composed of customs experts from various APEC Members, as well as Members from international organization such as the Conference of Asia-Pacific Express Couriers (CAPEC) and the International Express Couriers Conference (IECC), as well as of representatives from industries. A thorough review had been undertaken of how Chinese Taipei was processing express consignments, what progress had been made in implementing the WCO Guidelines, and what were its plans for further improvement.

194. In 1998, Chinese Taipei's customs set up an ad hoc Task Force to improve the express consignment system. Furthermore, in December 2001, the APEC Sub-Committee on Customs Procedures selected Chinese Taipei's customs as the first to be reviewed. An advisory mission was sent to Chinese Taipei and the experts were impressed with the progress and achievements made. They concluded that Chinese Taipei's customs had already achieved the main principles of the WCO Guidelines. That was the so-called phased approach previously referred to. In Chinese Taipei's

proposal, it was mentioned as a one-time shop. By speaking of a phased approach, Chinese Taipei was referring to a step-by-step approach.

195. As outlined in Chinese Taipei's submission, the implementation process might be divided into three major phases, as reflected in the presented diagram. The details of each phase were not definite and were subject to further discussion. As mentioned by Canada, the phased approach might be applied to other Members' proposals, too, and Chinese Taipei wished to further discuss those ideas with Members.

196. With respect to the questions raised by Jamaica, Chinese Taipei appreciated a thorough discussion of the WCO Guidelines. Chinese Taipei's intention was for Members to apply the WCO's Guidelines to the greatest extent possible. The concerns of some Members about some specific principles should be taken into account and addressed while the negotiations proceeded.

197. The representative of the European Communities replied to a number of questions from Hong Kong, China, Singapore and New Zealand, and said that written replies would also be circulated in due course.

198. Hong Kong, China had raised a question about the ECs proposal in paragraph 3 of its submission, namely the concept of periodic review and the idea that Members should no longer maintain the procedure or requirement if the reasons for its introduction no longer existed, or if there were less trade restrictive ways to carry out the objective. In that regard, the EC believed that some examples of how that procedure could have arisen included instances where, for example, since a regional procedure had been introduced, a greater level of automation had been realized in customs which allowed for a move to a less burdensome procedure. Possibly, new international standards had been drawn up in the meantime which could then be applied and replace a pre-existing procedure. Often, trade patterns had changed in a manner which made it no longer necessary to carry out the same levels of physical inspection. There was a whole range of reasons why requirements and procedures should be reviewed to take into account of evolutions in trade and in customs practices. What the EC proposed was a provision whereby Members would periodically review their import and export procedures to see whether those procedures still met requirements or could be further streamlined.

199. Hong Kong, China had also asked for more clarification about the proposal that Members might accept more routinely copies of customs documents and not necessarily the originals, and that commercially available information could be accepted as well. The discussions that had taken place at the last meeting had made clear that, for some Members, it was not foreseen in their legislation to accept copies of documents. But there was a very strong and consistent request of the business community for that to be possible. Furthermore, there should be circumstances where copies could be accepted such as, for example, under a system of authorized traders, where one could place sufficient trust in the authorized trader to accept copies of documents rather than originals. And, thirdly, in a situation where most of the Members were moving progressively, or had already moved, to electronic data submission, the concept of original documents and copies did not really exist anymore.

200. Hong Kong, China and Singapore had both asked for examples or an explanation of paragraph 9, namely that Members should commit to non-discrimination in terms of the procedures applicable to like products dealing with undergoing import and export procedures, irrespective of the mode of transportation. Relevant examples of problems that EC traders had experienced in that regard included very different rates of physical inspection of cargos, or of like products depending on whether they were being imported by road, rail or air freight without there being any obvious objective risk assessment basis for those different rates of physical intervention. Similarly, for products which were physically weighted by the customs on import, there were cases brought to the EC's attention by traders of very different rates of physical intervention for weighing. Those were the

two examples which the EC had been able to identify and more would be brought up in the EC's written reply.

201. With respect to Singapore's request for clarification of the EC's proposal that each WTO Member or customs union ought to have a uniform customs or aligned customs legislation etc, the EC made no apologies for a proposal which was aimed at transparency and simplicity in practice. As many Members had modified, modernized, refined, or changed their customs legislation over the years, there had been an increase of regulations and requirements. It would be very useful for the business community if the body of customs legislation could be within a single piece of legislation, or be a single, easily defined and circumscribed customs regulation, which was the essence of the proposal.

202. In respect of customs unions, the EC believed that for customs unions to function effectively, even if the legislation of each Member of a customs union was not completely, one hundred per cent a single document, there should be sufficient alignment of the customs rules of each member of the customs union that there was effectively a single body of legislation. The EC had a single community customs code applying across its customs union and considered that, at the very least, Members of a customs union, not only the EU, but other existing or emergent customs unions, should align their respective national customs legislation in order to create the kind of single market that a customs union was meant to provide for.

203. New Zealand had asked about the notion that Members import and export procedures should not be more restrictive than necessary to fulfil legitimate objectives and the question was made as to what would be such a legitimate objective. The EC did not want to give an exhaustive list, nor did it think it possible or desirable to try to establish one. An illustrative list would include national security requirements, revenue protection, anti-fraud and anti-smuggling policies, health and safety and environmental protection requirements and IPR. These were some of the other policy objectives which were the responsibility of customs. Obviously, none of those objectives should be called into question at all by the negotiating process.

204. The representative of Norway said that the intention of the border cooperation paper was to further encourage cross border cooperation as it was far more efficient and saved a considerable amount of resources, particularly for a country like Norway, which had a very long border to inspect. Others were in the same situation. The EC had pointed to the fact that they considered ways of further operationalizing or encouraging that kind of border cooperation between neighbouring countries in the context of the negotiations. While Norway's paper was intended as an experience paper, acknowledging the political sensitiveness of the matter for some Members, Norway agreed with the EC in trying to address the issue in the negotiations. There could be a paragraph encouraging such cooperation as one way forward, but Norway was flexible.

205. Regarding the question raised by the EC on whether the Nordic customs border cooperation depended on the same procedures and standards, and the question by Kenya about the requirement of a certain level of harmonization in order to have such an arrangement, Norway could provide the following information on the establishment and development of the agreement: The Agreement with Sweden had started out with cooperation in the field of customs enforcement or controls. The cooperation between Norway and Sweden developed in parallel with the establishment of international standards in organizations such as the Customs Cooperation Council, the predecessor of the WCO. The bilateral agreements between Norway and Sweden, and Norway and Finland must be regarded both as the result of close economic interest and mutual trust, and the fact that international recommendations existed to facilitate cross border traffic. The agreements were not depending on the parties having the same or identical rules, but on the proper education of the respective customs officers in the other parties' laws, regulations and procedures. However, merely educating each others officials was not sufficient. Both Parties to the Agreement had implemented in their national

legislation certain provisions entitling customs officers to exercise legal powers on behalf of the other state within the control zone. That was why it had been necessary to have an agreement with the EC in order to continue the cooperation when Sweden and Finland joined the Community.

206. The representative of China wished to take the opportunity to respond, on a preliminary basis, to some questions raised with respect to China's proposal and to provide further information.

207. The concept used in the proposal was enterprise classification. China agreed with the views raised by the EC, Chinese Taipei and others that the most important element in carrying out the system was to establish a rule for determining the specific categories of the enterprises. The most important element was to keep the rules as transparent as possible so as to avoid any discrimination.

208. With respect to the questions raised by Kenya on the longer transition period for the developing countries, China had no intention to deny the importance of TA&CB but merely wished to emphasize the importance of addressing the difficulties confronted by developing countries.

209. The representative of Singapore introduced Singapore's paper, explaining that it set out five specific proposals to clarify and improve Article V. The proposals were by no means exhaustive, but were intended to complement recent papers on Article V. Other proposals on Articles VIII and X might also be relevant as they related to transparency, simplification and standardization of documentation, data requirements and procedures.

210. The first proposal related to risk management. Singapore had suggested that Members should employ risk management techniques that enabled their authorities to concentrate inspection and monitoring activities on high-risk goods in transit. That could facilitate the movement of low-risk goods in transit. In that regard, Singapore noted the recent proposals on risk management from Japan, and China/Korea, which were useful for Members' discussions on the matter.

211. The second proposal related to Custom Houses as envisaged in Article V:3. The provision stated that traffic in transit should not be subject to unnecessary delays or restrictions unless there had been a failure to comply with the applicable customs laws and regulations. The phrase "unnecessary delays" was ambiguous and might possibly be subject to arbitrary interpretation. In that connection, Members might wish to discuss stipulating [a] time period/s, after which any further retention at the custom house could be deemed to constitute unnecessary delay.

212. The third proposal related to the notions of "administrative expenses" and the "cost of services rendered" contained in Article V:3. It was unclear what the permissible scope of "administrative expenses entailed by transit" and "the cost of services rendered" was and how those requirements were to be applied on an objective and reasonable basis. It was possible that "administrative expenses" could serve as a backdoor for the imposition of arbitrary charges. It would therefore be useful for Members to discuss whether, and under what situations, those expenses should be imposed on transit traffic. In that connection, Members could consider drawing up guidelines for the imposition of "administrative expenses". For example, Members could clarify that "administrative expenses" should only relate to costs for risk assessment and random inspections. That could be a nominal fee, which should be applied on a non-discriminatory basis. Members could discuss what other elements to include in those guidelines. With regard to "the cost of services rendered", it should be clarified that any charges imposed should only be in respect of the provisions of services necessary to ensure the effective transit of goods. The charges levied must refer to the approximate cost of the service rendered and might not be calculated on an *ad valorem* basis.

213. The fourth proposal related to the strengthening of international cooperation with respect to transit traffic. It was recognized that transit traffic was in many cases best facilitated through regional cooperation. The point had also been articulated in the joint paper from Paraguay, Rwanda and

Switzerland. Apart from encouraging Members to cooperate on a regional basis, the NG could also consider the possibility of drawing up a non-exhaustive list of elements that Members should endeavour to incorporate when negotiating regional transit agreements. Singapore had listed some examples of those elements. In that context, Singapore noted that Paraguay, Rwanda and Switzerland had enumerated a number of common features in certain transit agreements which might be relevant for the discussions.

214. Lastly, Singapore recognized that LDCs and some developing countries might have difficulties implementing some of the proposals on Article V. SDT should therefore be an integral part of any commitment in the area. In that context, Singapore noted that the papers on Article V contained specific proposals on SDT. Further to those proposals, Members might also wish to discuss (a) longer implementation timeframes for developing countries and LDCs; and (b) allowing those countries to implement, on a best-endeavour basis, the more onerous obligations resulting from the Article V negotiations, including in the context of phased-in approaches.

215. The representative of Chinese Taipei said that Singapore's proposal complemented several of the elements contained in proposals submitted at previous meetings. Chinese Taipei was in support of all the principles proposed, such as the drawing up of guidelines for the imposition of "administrative expenses", the call for further clarification of the term "cost of services rendered", the drawing up of a list of elements in regional transit agreements, and the suggestion that the Group should elaborate further in a future meeting.

216. In the meantime, however, Chinese Taipei wanted to make a brief comment on paragraph 5 regarding "unnecessary delays". "Unnecessary delays" had to be caused by unsound customs procedures and practices. Thus, it seemed more important to find and resolve the problems on the procedures than to stipulate time periods, because it could prove extremely difficult to establish common time periods that fitted well with the wide diversity of different customs environments that existed across all Members.

217. The representative of Rwanda associated her delegation with the statement by Zambia on behalf of the LDCs, and particularly welcomed the submission by Singapore on GATT Article V. The proposals made in that paper were very consistent with those made by Rwanda in the co-sponsored proposal TN/TF/W/39.

218. In particular, Rwanda agreed with paragraph 3 of the paper that risk management techniques would go a long way in expediting transit procedures Rwanda was very much interested in. That was an area that might require TA for countries that had not fully established risk assessment techniques. Rwanda's experience had shown that lack of well-trained and adequate human resources and data bank compromised the benefits accruing from risk assessment techniques.

219. Rwanda also agreed with the point made in paragraph 5 that the term "unnecessary delays" was ambiguous and that elements to avoid delays in clearance should be established. Rwanda would further consider the proposal of stipulating a time frame for that purpose.

220. Rwanda also agreed with the point made by Singapore in paragraph 6 that the terms "administrative expenses" and "costs rendered" were not clear and should be further clarified. Rwanda also welcomed and wished to consider further the proposal that guidelines for the imposition of administrative expenses should be established.

221. A small clarification was sought from Singapore on paragraph 9, proposing that charges levied must refer to the approximate cost of the service rendered. How would the approximate cost of a service be determined to ensure that the actual cost was indeed the approximate cost?

222. The representative of Switzerland said that the proposal by Singapore complemented very accurately Switzerland's own submission with some important issues that had not been listed under the common features. For example, Switzerland had listed that transit arrangements used to treat transit of goods differently according to the risk involved and its special characteristics. The implementation of that principle would be greatly supported by introducing risk management techniques. It allowed more targeted physical controls on sensitive goods but also plausibility checks across all products. The latter point was particularly interesting to track deceptive declarations of goods made to distract customs' attention from sensitive goods or because of other reasons.

223. Another issue of particular interest in the submission was the link it made between the promotion of regional transit arrangements and transit measures, also mentioned under the common features of Switzerland's proposal. Although transit arrangements were primarily a regional matter, Members should be interested in reflecting best practices in that clarification exercise of Article V. Therefore, Switzerland liked Singapore's proposal of drawing up a non-exhaustive list of elements that Members should endeavour to incorporate when negotiating regional arrangements. Furthermore, Switzerland did not have any problem with the other proposals on substance mentioned in the communication.

224. The representative of Hong Kong, China welcomed Singapore's paper. In principle, Hong Kong, China supported the idea of employing risk management techniques to expedite the movement of goods in transit. Hong Kong, China therefore welcomed further discussions on the proposal with a view to exploring whether reasonable, meaningful and enforceable WTO commitments could be established.

225. With respect to proposal number 2 regarding customs houses and unnecessary delays, Hong Kong, China was of the view that, given that circumstances might vary from case to case, it was necessary to maintain a certain degree of flexibility for Members. Therefore, Hong Kong, China was of the opinion that it might not be desirable to define a rigid period of time as unnecessary delay under Article V:3. Moreover, Members could always invoke GATT Article XXIII if they considered that there was a violation related to unnecessary delays under Article V:3.

226. Regarding proposal number 3 on Article V:3, Hong Kong, China generally welcomed discussions on the idea of drawing up guidelines for the imposition of administrative expenses to facilitate deliberations. It would be helpful if more details and examples on criteria to select elements for inclusion in the guidelines were given. Hong Kong, China also suggested for Members to consider the implications of any possible overlapping with GATT Article VIII.

227. Lastly, on proposal number 4 on strengthening international cooperation with respect to transit, Hong Kong, China supported the idea of taking into account the relevant work of the WCO and other international organizations in the area of TF in accordance with paragraph 9 of Annex D. With respect to the proposal for drawing up a non-exhaustive list of elements that Members should endeavour to incorporate when negotiating regional transit agreements, Hong Kong, China was of the view that it might not be effective for the WTO to develop a list of elements for regional transit given that they had been debated extensively in other fora such as the WCO. Hong Kong, China also wondered if it was appropriate to incorporate elements into other regional transit agreements.

228. The representative of Egypt commented on Singapore's proposal, saying that risk management, must be placed at the centre of transit procedures reforms since it allowed a balance to be struck between customs inspection and TF. Thought should also be given to determining how customs authorities from developing and LDC countries could be assisted to assess risk. As evidenced by Japan's experience, risk management required the establishment of specific procedures and automated systems which most developing countries and LDCs currently lacked.

229. Regarding the proposal listed in paragraph 2, item 2 on the customs house, Egypt was of the view that the discussion concerning the link of unnecessary delays should take into account Members' different levels of development and capacity of customs authorities.

230. Regarding item 4 on international cooperation, Egypt was of the view that Members should rely on the work undertaken by competent specialized organizations such as the WCO in order to further facilitate trade.

231. With regard to harmonized elements, while Egypt recognized that transit could be facilitated to regional cooperation, it was of the view that negotiations on trade facilitation should not be used to impose new obligations or burdens with regard to bilateral or regional cooperation arrangements. The NG should concentrate on its mandate and not harmonize elements not directly related to TF issues.

232. Finally, Egypt believed that the concern of developing countries and LDCs must be placed at the centre of the negotiations. It was essential that their implementation possibilities were duly taken into account.

233. The representative of Bolivia said that Singapore's contribution on Article V was useful for clarifying, improving and identifying the scope of Article V's current terms, particularly the ones mentioned in the second part of the proposal.

234. Members required time to discuss those elements. In some cases, they were quite ambiguous. However, Bolivia was of the view that Members had to look at the concepts, possible causes of unnecessary delays and, in particular, had to work out how to encourage cooperation with regard to the facilitation of goods in transit.

235. The representative of Singapore responded to questions raised on Singapore's submission, starting with the critical point raised in various interventions about the reference to SDT and TA. The notion of SDT had been one of the guiding elements in drawing up the various proposals in Singapore's paper. When considering each proposal, Singapore tried to work out how those proposals could take into account the particular situation of developing countries and LDCs. If read carefully, the paper showed that care had been taken in approaching, for instance, the matter of customs houses. The points made by Egypt, Chinese Taipei and Hong Kong, China referred to the particular situation of various countries, particularly developing ones and LDCs. That was why, when talking about stipulating time periods, Singapore had put it in the plural because Singapore recognized that, given their development situation, certain developing countries and LDCs might not be in the same position as developed countries to undertake an obligation. Singapore was open in that regard. It could be "time period" or "time periods", or it could be in the form of bands of time frames.

236. With respect to Hong Kong, China's second question on the non-exhaustive list of elements, Singapore was not proposing to harmonize all regional transit agreements. Singapore was well aware that transit agreements were based on a regional basis. Therefore, Singapore proposed a non-exhaustive list of elements, perhaps drawing from some good practices in existing transit agreements. The paper by Paraguay, Rwanda and Switzerland had highlighted some good practices in some of the transit agreements they had looked at. Singapore felt that having a non-exhaustive list of elements could serve as good practices which would facilitate trade on a regional basis.

237. On the issue of a non-exhaustive list of elements and good practices, Singapore referred to discussions taking place elsewhere in the WTO, especially in the services context. Some years ago, in the context of the Working Party on Domestic Regulations, the Secretariat had prepared a paper on guidelines for the negotiations on mutual recognition agreements. Singapore knew that there were mutual recognition agreements. The Secretariat had developed certain non-exhaustive or non-binding guidelines, to give a reference point of good practices for Members to look at when drafting mutual

recognition agreements. The idea proposed in Singapore's paper was similar. Singapore wanted to encourage a non-binding, non-exhaustive list of elements that Members could look at when drafting their regional agreements.

238. Regarding Rwanda's comments on the notion of approximate cost, what Singapore wanted to say was that the cost should be charged on the service rendered rather than on the volume of goods. That was why Singapore referred to the approximate cost of the services rendered. That concerned the form of jurisprudence as well.

239. The representative of the Secretariat introduced document TN/TF/W/43, explaining that it was designed as a working document to assist delegations in their evaluation of the various proposals on how to improve and clarify GATT Articles V, VIII and X. It should also be seen as a living document, as it would be regularly updated to reflect new inputs received from Members in that regard. The paper was essentially a snapshot of what had been put on the table so far, and a first step in the compilation process, rather than an end-result.

240. In preparing it, the Secretariat had tried to stay as close as possible to the request for such documentation in making it a factual compilation of Members' ideas on how to clarify and improve the relevant Articles. At the same time, the document also tried to respond to the expressed wish for more clarity on the overall amount of information by seeking to highlight main elements and identify related S&D and TA components, which was hoped would help delegations in their analysis of the measures proposed.

241. The document adopted a thematic approach in grouping the inputs to reflect the fact that various proposals were presented in a similar manner and to pick up on what generally seemed to be the way in which Members presented and discussed the various contributions.

242. The representative of New Zealand said that the Secretariat compilation was a very useful document that perfectly satisfied the mandate given for that task. It was particularly useful as it helpfully distilled the range of issues that had been proposed to date and evidenced the significant progress the NG had made since last year. It was also a tool that might help Members establish the kind of inventory of existing TF measures that Peru had proposed at the last meeting.

243. New Zealand agreed with the comments made by the Philippines on behalf of the Core Group as well as by Zambia that it was an extremely useful document. New Zealand also agreed with the point made by the Secretariat and by Zambia that, in order to remain useful, the document should be regularly updated and should become a living document.

244. Building on the suggestion from Zambia, New Zealand wished to propose that the compilation might be a helpful tool to assist with better structuring further discussions in future meetings. It would be useful for future meetings to follow the issues in topics as covered in the compilation in order to have a substantive discussion and engagement on various measures that had been proposed, while allowing for the discussion of new papers as they emerged, and any other issues Members wished to cover. That would enable a more focused debate, especially as Members moved closer to completing the issue identification phase of the negotiations.

245. The Chairman said that he welcomed New Zealand's comments.

246. The representative of Hong Kong, China said that the Secretariat compilation no doubt facilitated a better overview of the proposals made in order to address the Doha mandate and Annex D. Hong Kong, China appreciated the thematic approach used in the listing of the proposals as Members could discuss specific proposed measures in a more focused manner. It also served as a useful tool for Members to abide by to enable the start of text-based negotiations. In that regard, as

Members were actively submitting new proposals and revisions, Hong Kong China trusted the Secretariat to update the document as necessary. Moreover, on overall progress, Hong Kong China was much encouraged by the active participation of all Members, developed and developing alike, as could be witnessed by the number of proposals circulated so far and by the constructive dialogue Members were engaging in. Hong Kong, China was pleased that the NG was moving forward progressively and hoped that Members could maintain the same harmonious and positive momentum to move towards the Hong Kong Ministerial Conference.

247. APEC Ministers responsible for trade had, in written statement WT/L/611, committed themselves to intensifying the work on TF by identifying possible elements of a final outcome based on proposals and comments from all Members. To that end, Members might need to reflect further on means to develop synergies and to condense proposals in a transparent and complimentary manner that could satisfactorily respond to the needs of Members as well as the business community.

248. The representative of China said that the Secretariat compilation would be helpful for moving the negotiations forward.

249. As for Egypt's question about China's proposal in TN/TF/W/26, wondering how the suggested commenting period would absorb the suggestions from other Members, China was of the view that, when a Member adopted and publicized its relevant laws, regulations and other measures, it should provide a reasonable period of time for other Members to make comments in writing. If reasonable, the Member should consider those written comments in good faith when revising those laws, regulations, and measures, or make detailed rules for implementation or provide legislative interpretation.

250. Allowing for a reasonable period of time for other Members to make comments in writing after laws, regulations, and measures were publicized well before being implemented or enforced was a minimal requirement in that regard. The measures to be publicized depended on the legislative regime of each individual Member, except for the TBT and SPS regulations. In China, the drafts of laws, regulations and other measures which were of great interest to the whole society, such as those concerning financial services and tariff rate quotas, were published to solicit suggestions.

251. The representative of the Philippines said that the Secretariat compilation was a very useful document for all Members as they moved into the next phase of the work, and called on the Secretariat to continuously update the paper as new proposals came in.

252. Currently, the proposals were structured by themes. If possible, the next compilation or update should have an Article-listing to be more consistent with the mandate. In moving to the next phase of work, Members could concentrate on the proposals, views and comments that had been submitted by Articles.

253. The representative of the Secretariat explained that, as mentioned in the compilation document, the reason for the thematic grouping was that some submissions had not specified the Article they related to. As the Secretariat had not considered itself mandated to make that sort of judgement, which remained the prerogative of Members, the inputs had not been listed on an Article-by-Article basis. Furthermore, there were also proposals which indicated that they were to be understood as falling under more than one Article. The wish to avoid duplication by repeated listing had been another reason for adopting a thematic approach.

254. The representative of Malaysia commended the efforts of the Secretariat in compiling Members' proposals. As Malaysia considered it very important to share experiences on TF, a national experience paper had been submitted to the Secretariat, which outlined Malaysia's own experience with TF measures as presented at an APEC seminar in March. The paper focussed on Article VIII,

looking at the integration of the provisions of the Article with the relevant portions of the Revised Kyoto Convention, while also looking at other relevant WCO instruments. It outlined the Malaysian approach to TF.

255. The paper presented the practices implemented by Malaysian customs, covering provisions on Article VIII:1(a), relating to fees and charges, as well as Article VIII:1(c), relating to minimizing the incidence and complexity of import and export formalities, and of decreasing and simplifying import and export documentation. The paper further addressed the areas of (i) border agency coordination; (ii) standardizing and simplifying of trade and clearance procedures; (iii) immediate release of goods; (iv) special procedures for authorized traders; (v) coordinated inspection by various agencies; (vi) use of risk management techniques; and (vii) implementing enhanced clearance systems through use of collateral and monetary security.

256. Going back to the Secretariat compilation, Malaysia wished to use the opportunity to register its feedback on the tabled proposals as well as share some of its experiences and raise its concerns on some of the elements.

257. On the issue of publication of trade regulations, Malaysia's trade laws and regulations were readily published, as well as standard processing times, which were published in the client charter of the Royal Malaysian Customs and other relevant border control agencies. Malaysia also provided customers with reasons for delays in customs clearance, including an explanation of the basis for the delays.

258. However, Malaysia wished to seek clarification about the proposal in the joint paper TN/TF/W/8 where it was suggested that details of service contracts between PSI entities and governments be published. Malaysia was not clear what was meant by it and why governments must reveal its contracts with any parties.

259. On new Trade Laws, Malaysia was bound by its domestic legal system that did not allow the publication of draft versions before they were enacted. Malaysia also had reservations about providing comments on new laws. However, Malaysia did have prior discussions through dialogues and meetings with the domestic private sector trade associations to ensure that their interests were taken into account in formulating and finalizing new laws and regulations. Malaysia found that there was always a need to strike a balance between maintaining the prerogative and sovereign rights of the governments and taking care of the business interests of the private sector. Whenever possible, Malaysia endeavoured to provide sufficient intervals between publication and entry into force of such regulations.

260. Malaysia supported the proposal to establish enquiry points, Single National Focal Points or information centres and believed it would facilitate trade. Besides setting up its own TF portal, Malaysia, together with its ASEAN partners, was currently working on the ASEAN Single Window project which was targeted for completion in 2007. Malaysia welcomed TA&CB to strengthen its regional work in that area.

261. On the proposal of providing advance rulings, Malaysia was pleased to report that Malaysia had in place a somewhat simpler system of providing advance rulings on tariff classification, but not on valuation and duty referral. Malaysian Customs had always tried to facilitate written queries from traders and Malaysia had been providing rulings on tariff classifications. Malaysia had yet to put in place an advanced system of also providing valuation and duty referrals. Malaysia supported the proposal as it would provide traders with some amount of certainty. Capacity building to train human capital to handle such advanced techniques was absolutely necessary.

262. On the proposal for appeal procedures, Malaysia had in place mechanisms to allow for legal rights of appeal against decisions that traders were not happy with. Traders could firstly appeal to the Royal Malaysian Customs, then to the Minister of Finance and also to the courts. Malaysia wished to ensure that its laws were uniformly administered. At the same time, the Malaysian General Orders had enshrined Rules and Codes of Conduct to maintain a high level of integrity of government officials.

263. Malaysia also supported the proposal to ensure that fees and charges imposed in connection with importation and exportation should be reasonable and commensurate with the services provided. Traders were only expected to pay a minimal fee for the trade documents/forms. To foster a competitive environment, the government did not regulate the fees and charges imposed by the private sector for their services rendered.

264. On the issue of consularization, Malaysia also supported the move to eliminate the imposition of consular fees and charges. Such a move would reduce the cost of doing business and could expedite trade.

265. Border agency coordination was another area of work that merited consideration. That proposal, however, could only be worked out through bilateral arrangements between neighbouring states that could derive mutual benefits from such arrangements. Coordination between Customs authorities, single inspection and the like might prove beneficial in the long term.

266. Malaysia supported the idea to have an efficient expedited release and clearance of goods systems as it was important to promote trade and facilitate business entities. However, it took some time to implement that and stretched the resources required for all those systems. Therefore, it was important to have continuous and effective TA programmes to assist Members in developing systems to implement those programmes.

267. On the proposal of adopting objective criteria for tariff classification, Malaysia supported such moves. Malaysia had adopted the WCO's Harmonized Tariff Classification System. Currently, Malaysia was implementing the HS 2002 and in the process of upgrading and aligning its tariff classification to the HS 2007.

268. With respect to the proposals on transit contained in documents TN/TF/W/28 and TN/TF/W/35, Malaysia had some concerns about the proposal on non-discrimination between modes of transport, carriers of goods in transit, route chosen and particulars of goods.

269. On non-discrimination between modes of transport, there should be a clear definition of the scope of modes of transit between modes which were considered "classic" i.e., road, rail and land, and non-classic modes such as carriages via other means such as pipelines and related means. The scope of transit between the two should not be subjected to the same definition, and must be given appropriate treatment with regard to national regulations and laws.

270. In the area of carriers of goods in transit, the Malaysian National Road Transport Law was in place to ensure that the highest standard of road safety was being applied, which included requirements for vehicles/carriers to be road worthy, and to acquire necessary legal documents such as insurance and registration, which were recognized by other legal domestic policies and institutions.

271. On routes, although it was realized that carriers would prefer taking their individual choice of roads, as a credible trading nation, the government was responsible to ensure the most safe, convenient and fastest routes for carriers to utilise. The national law on road transport also upheld social responsibility, especially on public safety. In that regard, a restriction had been imposed for

heavy/commercial vehicles to use certain routes to avoid the roads being damaged and become a danger to other road users.

272. It must be stressed that each Member had its national position and priority list on goods/products considered as sensitive, dangerous and prohibitive. Malaysia wished to seek clarification on the proposal by the EU with regard to non-discrimination of the particulars of goods. Was the proposal also suggesting having a common definition for sensitive, dangerous and prohibitive goods? Malaysia was strongly of the view that freedom of transit for certain goods across transiting territory should be negotiated on a case-by-case basis, wherever possible. That was to take into consideration the national interest, priority and security of the transiting countries.

273. On the issue of fees and charges, Malaysia supported the need for prohibiting the collection of fees and charges which was not commensurate with the services rendered, as reflected in Article VIII of the GATT 1994. Malaysia was of the opinion that establishment of the self review mechanism was beneficial, and Malaysia, on its part, had conducted such exercises regularly through dialogues, meetings and consultations with the private sector. Such establishment of a self review mechanism must be an internal/domestic process, and conducted on a best-endeavour basis.

274. Malaysia's comments on the periodical self review mechanism for transit formalities and documentation were similar to the ones made on the suggested self review of fees and charges. However, Malaysia wished to seek additional clarification on who would qualify as "other parties", as reflected in the proposal TN/TF/W/28 in paragraphs 3 and 4, first bullet, last line.

275. The proposal for efficient cross border cooperation was important to ensure faster movement of goods between borders, while at the same time understanding the need to protect each country's national sovereignty. However, at the implementation level, cooperation programmes such as having a shared physical structure/presence, or one inspection system, were difficult to do administratively as they involved participation and approval of various agencies/authorities within a government. In that regard, Members that had successfully conducted cross border cooperation might like to share their experience that would be beneficial to other Members.

276. The representative of Australia replied to the questions and comments raised by Egypt in JOB(05)/84, specifically in respect to document TN/TF/W/23 and question 3, which was also directed towards a paper co-sponsored with the European Communities, which had already provided written responses to the questions.

277. With respect to Egypt's question of how Australia determined the cost of customs fees and charges applied in connection with importation and exportation, Australia wished to inform that Australian Customs administered a cost recovery regime under the *Import Processing Charges Act 1997*. The Government had directed that Australian Customs recovered the cost of its processing operations from the importing community.

278. The customs system used ensured that the charging regime was reasonable and transparent and provided certainty of costs. The cost recovery fees and charges were currently set by legislation and subject to change by regulation. Advice of the costs applied was contained in the Australian Customs Notices and published on the Australian Customs website. The charges were also discussed with the industry at regular consultative meetings; charges applied to Customs entries – both manual and electronic – as well as other Customs procedures associated with imports and cargo reporting. The charge for an electronic entry was \$A 44.00 plus \$0.20 per line of entry after line 10; the charge for a manual entry was \$65.75 per entry and \$1.00 after the first line.

279. The representative of Kenya said that the written responses to Kenya's questions by Canada and the EC had been submitted to the capital where further issues might need clarification. Kenya

would appreciate if other Members would also provide written responses to the questions contained in JOB(05)/64.

280. The representative of Peru said that the Secretariat compilation was well structured and gave a good overview of the major issues involved. The document was very useful and updating it would allow delegations to do the best work possible, coordinating with their capitals.

281. Document TN/TF/W/40 by Argentina was a concrete proposal that did not seem to involve too many difficulties in terms of its implementation. It would also yield some advantages in the short term. With regard to languages of publication, Peru thought that to be something that could be looked into in the future. It was something that had come up in several of the proposals and it could be useful for those countries whose languages were not official languages of the WTO. In addition to having Spanish, Peru made an effort to have all of its administrative information available in various areas, particularly in the area of customs. Peru wished to have all the information available in English as well as in Spanish. Peru also stressed the importance of transparency in dealing with information.

282. Document TN/TF/W/44 by Chinese Taipei on immediate release of express consignments was understandable and clearly set out. The fourth part on TA&CB was particularly important, especially with regard to having a phased approach for CB which would support sufficient and effective TA. The focus could be an example to follow not just for release, but for other issues in addition to customs clearance, that were discussed in the NG. APEC could provide various examples that might be useful to look at, not merely in terms of customs clearance, but with respect to other issues as well.

283. With respect to the issue of risk management, which had been touched upon in Japan's document TN/TF/W/42 and in TN/TF/W/49 from China and Korea, as well as in the first part of document TN/TF/W/47 from Singapore, Peru considered the issue of risk management to be very important.

284. Peru had had positive experience with risk management. Both release and customs clearance had been much faster and there had been an improvement because of the risk management measures implemented, thanks also to the cooperation and TA Peru had received at the right time. That went together with SDT, which was important to allow all Members to be able to attain the appropriate risk management level. Customs procedures in Peru were based on various selection models with various variables. They had the advantage of identifying the level of risk, which allowed to select and see which consignments were high risk. Second, it allowed for a good balance between combating fraud and facilitating legal trade. Thirdly, it also eliminated additional and unnecessary costs. And, fourthly, it provided effective protection, particularly for good clients. Finally, it meant that resources were spent and used well. As a developing country which had been implementing various measures, Peru would be more than willing to share its experiences in risk management.

285. The representative of Turkey commented on the submissions on Article V, saying that the movement of goods under transit procedures was becoming increasingly significant in the world trading system, as transit was the major procedure used for logistics needs. Transit procedures, harmonization of practices, standardization of document requirements, international guarantee systems and transparency and predictability were crucial elements to accelerate trade flows.

286. Turkey supported most of the proposals set out in documents TN/TF/W/28, W/30, W/34, W/35 and W/39. Turkey reinforced its support to enhancing transparency. Lessons learned from the experiences faced by Turkish economic operators made Turkey seek a more transparent environment, non-discrimination and justifiable fees.

287. Turkey wished to see regional cooperation initiatives to discipline transit formalities as an acknowledged method of facilitation by the WTO. The most important element in regional initiatives should be the use of international standards and rules in their arrangements.

288. Turkey shared the views of Peru regarding the use of IT in customs transit procedures and simplification in formalities by pre-arrival risk assessment. However, that required extensive and integrated computer systems among the customs administrations. There were already some comprehensive studies being undertaken by WCO in that area. A broad adoption of such instruments as developed by international organizations was indispensable for the proposed system.

289. Turkey also supported all proposals put on the table by Bolivia, Mongolia and Paraguay and wished to emphasize the importance of transparency in fees and visa rules used in transit, the prohibition of unjustifiable fees and visa requirements in relation to transit and the establishment of a practice monitoring mechanism. Turkey attached great importance to solving the problems arising from the perception of transit regime as a revenue generating mechanism.

290. The representative of Mexico said that the development of an international framework of rules through the WTO was an essential means of improving multilateral trade relations and of helping to create greater certainty for economic operators by providing tools that allowed clear and firm steps to be taken towards trade liberalization and, hence, higher levels of investment, production and employment.

291. Significant advances had been made in securing freer relations thanks to the trade rounds held to date, in which tariff reductions averaging roughly 90 per cent were achieved for industrial products, so that customs duties were lower than 4 per cent. At the same time, the international legal framework had been enriched through the adoption of various agreements allowing the reduction of non-tariff barriers to be addressed in an orderly and transparent manner. However, further resolute steps were needed in order to develop new disciplines to supplement the existing ones.

292. Five times more goods were now crossing Mexico's borders than ten years ago as a result of the operations which customs carried out daily and which amounted to more than 900 million dollars, involving the processing of more than 22,000 import documents, the transit of 1,150,000 persons and 34,000 vehicles through the 48 customs posts and various inspection points. As trade had thus expanded, the trading community had experienced new needs prompted by a growing interest in a swifter flow of goods, lower costs associated with commercial operations and greater efficiency in the operation of supply chains, with a view to more efficient production and greater competitiveness.

293. Trade facilitation was therefore one of the main strategies that would allow Mexico to enhance its importance as a strategic centre for attracting investment and developing productive activities. For that reason, an ongoing programme was being implemented to modernize customs on the basis of four guiding principles: (i) securing customs' role in the achievement of legitimate objectives; (ii) optimizing customs control; (iii) developing mechanisms to ensure a swift and secure flow of goods; and (iv) allowing proper enforcement of tax provisions.

294. Measures taken under the above programme included the simplification and automation of processes, improvement to infrastructure, acquisition of new technologies and equipment and the establishment of cooperation programmes and agreements with industry and with foreign customs authorities.

295. Mexico had likewise made significant progress in transparency, the implementation of schemes for certified traders, the application of information technologies for import and export formalities, the establishment of facilities for temporary import, the development of more

sophisticated risk management systems, clearance of urgent shipments, integrity, advance rulings and appeal procedures. However, efforts had to be ongoing in order to deepen and expand TF activities.

296. Mexico had been following and studying closely the contributions made by various delegations in the exchange of views so far held in the NG, and expressed its appreciation of the efforts delegations had made to illustrate clearly the various aspects of their proposals.

297. There had been in-depth discussions on a number of measures able to contribute positively to reducing transaction costs related to international trade and to accelerating trade flows, and which at the same time afforded major benefits in terms of raising production, employment and investment. However, without prejudice to other steps that could be considered with a view to reaching an agreement on TF, in Mexico's view, the following measures, which other delegations had also referred to at one time or another, were most important to achieving the above-mentioned objectives: (i) the possibility of commenting on draft laws and regulations; (ii) pre-arrival customs clearance; (iii) establishment of contact points; (iv) publication of and easy access to advance rulings; (v) establishment of minimum time periods for entry into force of new regulations; (vi) publication and periodic review of charges and duties; and (vii) use of international rules.

298. Mexico realized that the success of the negotiations and, above all, the proper implementation of any disciplines that might be agreed on, depended on the appropriate provision of assistance and the creation of technical capacity consistent with Members' needs and priorities, and on a suitable definition of disciplines on SDT, based on implementation capacities and modalities that best addressed differences in such capacities.

299. Mexico was grateful to the Secretariat for the valuable work it had done in producing the compilation of Members' proposals which would, without doubt, facilitate progress in the negotiations.

300. The representative of Brazil wished to share with Members a few comments on the proposals presented at the Group's last meeting.

301. With respect to the proposals circulated by Paraguay, Mongolia and Bolivia, Peru, Korea and the European Communities on Article V, Brazil saw the suggested measures in a positive way. Many of them were in fact already used by Brazil's customs authorities. On the question of granting freedom of transit through the territory of each Member via the routes most convenient for international transit, Brazil wished to point out that the practice adopted by Brazilian customs authorities was in principle that of leaving the choice of route to the operator. That meant that Brazil's practice was already in accordance with the suggestion presented in the proposals of the European Communities and of Paraguay, Bolivia and Mongolia in that regard.

302. On the question of temporary admission of goods, Brazil was not yet a signatory to the WCO's Istanbul Convention. However, many of the simplified procedures presented in that convention were adopted in the practice of Brazil's customs authorities. Brazil considered it positive that the Group was looking at measures in that area.

303. The adoption of measures to expedite the movement of goods in transit within its territory was a top priority for Brazil. As a country with a huge territory, Brazil fully understood the problems faced by some of its landlocked neighbours and was prepared to discuss ways to solve them. Brazil supported the idea of discussing issues that were of special relevance to landlocked Members as proposed by Bolivia, Mongolia and Paraguay in document TN/TF/W/28. In the case of one of Brazil's landlocked neighbours, Brazil had already internally taken measures to address some of the concerns. Brazil had a favourable position towards the need of discussing means to improve some

elements of Article V, such as non-discrimination, fees and charges, formalities and required documentation.

304. With respect to Articles VIII and X, Brazil wished to offer one general comment on the proposals by Peru (TN/TF/W/30), New Zealand (TN/TF/W/24), the European Communities (TN/TF/W/6), as well as by Japan and Mongolia (TN/TF/W/8). Many of those proposals referred to the TBT Agreement as providing a good model for a mechanism allowing WTO Members to comment and express their views on proposed regulations to be published. If one pursued the idea of establishing a similar mechanism in Article X, one would have to be very specific in identifying those legal instruments to be notified. Article X applied to laws, regulations, judicial decisions and administrative rulings of general application. Yet, in some cases, there might be a law or a decision which affected trade in an indirect way. It had to be discussed whether Members were to notify those regulations or not.

305. Another question related to the types of trade regulations that would have to be available for consultations. Brazil had noticed that the proposal suggested that all relevant legislation in customs procedures should be published. In discussing the other proposals, Brazil believed Members would have to be more explicit and specific on what they considered to be relevant or, as an alternative, simply leave it to the discretion of the national authorities.

306. With respect to the proposal by Argentina, Brazil supported the presented idea of improving transparency. It certainly was a good idea to implement any measures towards improving transparency of regulations. Yet, as pointed out by some delegations, one might need a lot of resources to translate all regulations of a country into one of the WTO official languages. Improving transparency was a good idea, but since one would need a lot of resources to do that, Members would have to come up with a mechanism in order to help countries do it. For Brazil, the idea of having summaries might be a good alternative to translating the complete text of the entire legislation. That might be good in terms of transparency. Yet, Brazil was not sure whether that would necessarily improve trade. For instance, if a Member published all their legislation in Spanish and other Member countries had, as their national language, French, that might improve transparency, but not necessarily trade flows. Perhaps one should think a bit more if there were better ways to improve transparency while at the same time stimulating the activities of Members' importers and exporters.

307. The representative of the Philippines commented on proposals previously made, starting with Article V.

308. Section V.1 of paper TN/TF/W/28 suggested that non-discrimination be observed between modes of transport, origin and destination, carriers, routes and goods. Since the Philippines believed that there already was a requirement in the existing Article V, paragraphs 2 and 5, to that end, the Philippines wanted to know if the proponents were thinking of something different. Also, the Philippines sought clarification on what was meant by the sentence: "this is without prejudice to the commitments in force involving landlocked Members". Was that a reference to regional trade agreements entered into by the proponents?

309. Regarding point III, 5.2, the second and third elements of the proposal appeared to be a new set of obligations in Article V because they no longer confined themselves to freedom of transit but extended to issues dealing with fees and charges. That was Article VIII. Was it the intention of the proponents to amend Article V to include features of Article VIII, applicable only to goods in transit?

310. With regard to point III, 5.3, the Philippines believed that the last three bullets contained therein should not present major problems. Regarding the first bullet, however, dealing with reasonable transit formalities and reasonable review of such formalities, the Philippines wished to know why the proponents suggested the periodic review of formalities only to be based on comments

by the private sector. In respect of fees and charges, the proponents had even suggested the involvement of the private sector through a commission in the periodic self-review of fees and charges. Was the difference in approach intentional?

311. Peru's proposals TN/TF/W/30 on Article V regarding goods in transit merited serious consideration.

312. As for Korea's proposal on Article V (TN/TF/W/34), a distinction was made between goods in transit involving, or not involving, transshipment. But for both instances, it was proposed to simplify procedures and service fees. For the first type, a simple goods declaration and a simple set of service fees would be sufficient for transit procedures. For the second type, additional inspection and security measures were foreseen to prevent the smuggling of the goods into the transit country. The Philippines believed that the Korean proposal moved in the right direction because it all related to reducing transaction costs. Nevertheless, the Philippines believed that facilitation should neither compromise the performance by customs authorities of their duties and responsibilities, nor prejudice the integrity of borders of the transit country. Korea further noted that to implement its proposals, Members would need to review their documentary requirements and fees for transhipped goods and non-transhipped goods in transit. That was one area where TA and cooperation for developing countries in establishing appropriate documentary requirements and fees for goods in transit and other procedures would be most welcomed.

313. In document TN/TF/W/35, the EC set out a number of real life problems faced by traders as goods transited countries and proposed a number of measures to remedy them. The proposal touched on Article V *per se* and also on the transposition of Article VIII-disciplines into Article V in the case of goods in transit. Clarification was sought on several points. With regard to the suggestion of disciplines on charges on transit, was the EC suggesting standards on what they might be, or only on how they were applied? On the issue of transparency of transit requirements, procedures and charges, was the EC suggesting something more than what was already required by Article X? With regard to the simplification of documentation, data requirements and procedures, would that imply that pre-arrival processing of transit documents, risk management, authorized traders, Single Windows, and time release standards would be the norm? And lastly, on the improved cooperation among customs authorities, was the EC suggesting that it would be a matter of the right for one customs authority to request or demand cooperation and coordination from other customs authorities?

314. The representative of India hoped that the very comprehensive and useful Secretariat compilation of the negotiating proposals made so far would be updated from time to time to incorporate new proposals made. India supported the proposal by the Philippines for the Secretariat paper to have a reference to the GATT Articles under which the proposals were made. India appreciated the difficulties the Secretariat encountered in that respect but hoped that those were not insurmountable. Furthermore, it could also be useful to have a compilation of the questions raised on the proposals. India recognized that there were the minutes of the meeting to reflect those observations, but they were perhaps not as focused as a compilation of the questions could be. It was also India's hope that, in due course, once greater discussions had taken place on SDT, the ideas on SDT would be compiled as well.

315. India's intervention was mainly focused on the proposals contained in papers TN/TF/W/28 to TN/TF/W/39. Several proposals made in those papers were more or less a repetition of earlier proposals. India's observations on such proposals remained the same as the ones made earlier. For the sake of brevity, India would limit India's intervention to the new proposals contained in those papers. India would also make certain observations regarding the proposal on prior consultation of new or amended laws contained in the negotiating proposals TN/TF/W/6, W/7, W/24 and W/26.

316. With respect to transit matters, India wished to emphasize that discussion on issues concerning transit of goods should not be detrimental to the national security interests of any Member. India welcomed the recognition of that principle in paragraph 16 of paper TN/TF/W/39 by Paraguay, Rwanda and Switzerland which pointed out that all transit arrangements strove to strike the right balance between legitimate safety/security concerns (including the illegal diversion of goods into the domestic market) and the faster and more efficient movement of goods in transit. India would have grave concerns regarding any proposals which tended to militate against that basic principle.

317. In that regard, India had a particular concern regarding one such proposal, namely, the suggestion to operationalize the existing commitment in Article V of free transit via the "routes most convenient for international transit" to mean leaving the choice of route and means of transport to the operator (TN/TF/W/35 by the EC). India did not share the view that the term "routes most convenient for international transit" would imply leaving the choice to the operator alone. In India's understanding, the route for international transit should be such that it was convenient for both the landlocked country and its neighbour. One would need to take into account various factors including the available infrastructure of roads, rail and port, the infrastructure at entry and exit points, security and safety concerns etc. The choice of a definite route and identified transit points at the international border helped in achieving better coordination and facilitation by the related government agencies. On account of those considerations, it was important to recognize the principle that the number of transit points on international boundary would need to be identified bilaterally by the two countries concerned.

318. With respect to the proposals regarding non-discrimination between modes of transport, origin and destination, carriers, routes and goods for transit movements contained in document TN/TF/W/28 by Bolivia, Mongolia, Paraguay, Kyrgyz Republic and Japan, and in document TN/TF/W/35 by the EC, India supported the principle of non-discrimination at a broad level but wished to caution that that principle could not be applied in all circumstances. Members needed to have flexibility to permit certain procedures or practices relating, *inter alia*, to modes of transport, destination of goods and carriers of goods in transit, which might prima facie appear discriminatory, but were otherwise justifiable on the basis of perceived risk to goods under different modes of transport (such as containerized rail and truck cargoes and non-containerized or open truck cargoes), the level of trust placed between various types of transport agencies (Government owned railways or truck companies versus privately owned truck companies) and the extent to which the destination country was willing to take responsibility on behalf of its importers to make good any revenue demand arising out of diversion of goods in the transiting country. India also requested the proponents of paper TN/TF/W/28 to amplify the implication of their proposal to extend national treatment to landlocked developing Members.

319. With respect to the proposal for non-discrimination to apply to fixed installations which themselves were capable of moving goods, such as pipelines (TN/TF/W/35), India was of the view that that proposal needed greater discussion and understanding. India would also like to know whether the proposal was limited only to pipelines or whether any other type of fixed installation was likely to be covered under that proposal.

320. As for the publication and periodic review of transit related to fees and charges suggested in TN/TF/W/28, India supported the principle of prohibiting the collection of fees and charges which had no legal basis. India felt that to be a better standard of prohibition than the earlier proposal of Japan in the context of GATT Article X (TN/TF/W/17) to prohibit unpublicized fees. Regarding periodic review of fees and charges, India had already stated in response to the paper of Taiwan etc. (TN/TF/W/25) that a periodic review was an economic necessity and would need to take into account inflation and other factors impinging upon cost. As India considered the periodic review of fees and charges to be an economic exercise related to the cost of services rendered, India did not find sufficient justification for the suggestion to create an additional bureaucracy by having a permanent

review mechanism, such as a commission formed by representatives of the sectors involved. India felt that the mechanism for self periodic review should be left for the Members to decide.

321. With respect to the proposals on reasonable transit formalities and documentation requirements and a periodic review contained in TN/TF/W/28, one had to be cautious regarding proposals that used terms which were subjective and which could be interpreted differently. In that context, India sought a clarification from the proponents whether they had any concrete ideas regarding their suggestion to maintain "reasonable transit formalities" for "minimizing unnecessary delays or restrictions on traffic in transit". Similarly, India would request the proponents to clarify whether they had any concrete ideas on how to operationalize their suggestion to maintain "reasonable transit documentation requirements" for "minimizing unnecessary delays or restrictions on traffic in transit". India would also suggest that any possible discipline on documentation requirements should take into account the legitimate concerns of customs control over transit goods.

322. India supported the proposal for periodic self review of transit formalities and documentation requirements. India however did not support any fixed periodicity. Each Member should be allowed to determine its own periodicity. Furthermore, India sought clarification from the proponents as to what the term comments from "other parties" implied. India did not favour that to mean other WTO Members as well.

323. As for the use of international standards for transit formalities and documentation suggested in TN/TF/W/28, W/30, W/35 and W/39, India supported that proposal in principle but with a built-in best-endeavour clause by use of the expression "to the extent possible". That was important to provide some flexibility in using international standards to suit available capacities and specific domestic circumstances of individual Members. India also requested the proponents to list the international conventions which were proposed to be taken into account for adopting international standards for transit formalities and documentation.

324. Regarding the proposal on a bonded transport regime contained in TN/TF/W/28, India broadly supported that proposal. India also sought clarification with some examples regarding the meaning of the term "other charges".

325. As for the coordination of documentation requirements among relevant authorities suggested in TN/TF/W/28 and TN/TF/W/35, India's domestic experience was that there was minimal requirement of documentation from authorities other than customs. India would be interested in knowing from the proponents as to what types of documentation requirements were prevalent from other "relevant authorities" for which coordination was proposed.

326. Regarding the establishment of a cross-border cooperation scheme suggested in TN/TF/W/28, W/35 and W/39, and the suggested periodic meeting of neighbouring Members authorities as set out in TN/TF/W/28, India supported those proposals as a best-endeavour clause for the same considerations that India mentioned in regard to similar proposals under GATT Article VIII. Binding commitment would not be possible on account of factors such as political sensitivities, level of infrastructure development, level of automation, difference in working hours and public holidays, etc.

327. With respect to the proposal to accord goods in transit that do not require transshipment less burdensome treatment than goods in transit that do require transshipment (TN/TF/W/34), India sought further clarification from Korea, through some examples, regarding their understanding of the term "transit with transshipment". India would also like to know whether reference to "transshipment" applied to both within and outside the customs area.

328. Concerning improved transparency of transit requirements, procedures and charges in line with the proposal already submitted to the NG (TN/TF/W/35), India supported the principles of

transparency specifically enumerated in that proposal, namely publication of information and prior consultation for regulations. India sought clarification as to what other elements of the proposals made under GATT Article X were proposed to be applied to transit requirements.

329. As to more effective GATT Article V disciplines on charges for transit, proposals already submitted to the NG in relation to GATT Article VIII rules on fees and charges could be a basis for elaborating parallel provisions on charges for transit. Members could consider how to ensure that all charges for transit were effectively covered (TN/TF/W/35 – EC).

330. India's domestic consultations indicated that India had minimal charges for transit. India would therefore like to know from the proponents an illustrative list of transit charges so as to understand their proposal "to ensure that all charges for transit were effectively covered".

331. With regard to simplifying and standardizing documentation, data requirements and procedures applied to goods and means of transport in transit in line with proposals under GATT Article VIII (TN/TF/W/35 – EC), India wished to sound a note of caution regarding the approach to discuss simplification of procedures under GATT Article V as a replica of procedures under GATT Article VIII. Some of the procedures being discussed under GATT Article VIII, such as risk management and authorized trader systems, might not be required for transit goods as the existing procedures might themselves be very simple and expeditious. For transit, a general system of risk management was already being followed by categorizing goods as sensitive and non-sensitive. To expand its scope by adding other risk parameters might not be feasible. Similarly, if not many agencies were involved in permitting movement of goods under transit, there might not be much benefit in discussing a "Single Window" system. India would therefore suggest that the proponents might suggest a distinct and preferably a minimal list of procedural simplifications under GATT Article V.

332. With respect to the proposal for more effective disciplines on the level, nature and management of guarantees required from transit operators, including rules to ensure that they were not used as an instrument to raise revenue (TN/TF/W/35), India supported the general principle that guarantees should not be used as an instrument to raise revenue. However, India wished to emphasize that Members should have the freedom to adopt such a guarantee system which covered the risk involved on the goods in transit.

333. As for the proposal on special procedures for transit that consisted of separate physical lines for border crossing and simplified border formalities contained in TN/TF/W/39, any proposal of that kind would need to be in terms of only a best-endeavour clause, as one had to keep in mind the associated issues such as infrastructure constraints (for instance, some countries might only have two-lane roads), the relative volumes of in-transit and normal traffic, and any other unique situations.

334. With respect to the proposal for limiting physical inspections and controls (TN/TF/W/39), India supported that idea in principle. However, physical inspection would need to be commensurate with the actual circumstances and risk involved. In any case, the country of transit should retain the right of examination of goods wherever the circumstances so required.

335. As for the proposal on simplification of customs formalities and increased use of electronic and interconnection media for the inspection of goods upon entry to, at subsequent stops within, and on exit from a customs territory to ensure compliance with the customs legislation in force in the territory of the Member (TN/TF/W/30), India supported that proposal in principle. India however cautioned that any simplification effort should take into account legitimate concerns of Members regarding safeguarding national security and revenue. India sought clarification from the proponents as to what the term "interconnection media for the inspection of goods" meant.

336. With respect to the establishment of disciplines on the application of risk assessment criteria and on pre-clearance, concurrent, and post-clearance control of goods proposed in TN/TF/W/30, India supported the principle of adopting a risk management system, but did not favour a discussion on the application of specific criteria for its implementation. That should be left to individual Members. Similarly, the form and manner of post-clearance control would need to be left to Members, too.

337. On the proposal of automation of customs and other agency import/export procedures, with the possibility of electronic submission of customs and other declarations, and automated payment of duties and other fees and charges (TN/TF/W/30), India supported in principle the proposal on automation of import and export procedures. However, India suggested caution on the proposal of automated payment of duties and other fees and charges. India was internally attempting automated payment of customs duties and found that it needed development of adequate capacities for other relevant partners like banks, traders and Customs brokers. The automated payment of other types of fees and charges would be even more difficult to implement. India therefore suggested that the automated payment system should be only a best-endeavour clause.

338. With regard to the proposed two tests for import export formalities ((i) no more administratively burdensome or trade restrictive than absolutely necessary to achieve their legitimate objectives; and (ii) be applied in an efficient manner) contained in TN/TF/W/31, India noted that many specific proposals had been made for adoption of various procedures which could possibly achieve the same end result in a more concrete manner. India therefore did not see much value addition in adopting generalized principles which could be interpreted differently by Members. However, India also took note of footnote 1 of Annex D which stated that clarification and improvement of relevant aspects of Articles V, VIII and X of GATT 1994 was without prejudice to the possible format of the final result of negotiations. India wished to know from Hong Kong, China (HKC) whether they proposed to have clarification of Article VIII only in terms of generalized principles instead of discussing individual procedural elements.

339. As for the suggested transparency and publication of information and electronic publication of information set out in TN/TF/W/32, India supported the principle of publication of measures connected to import and export. India however sought clarification as to in what manner HKC's proposal under paragraph 1(b)(i) was different from their proposal under 1(a).

340. India also sought clarification regarding HKC's proposal under paragraph 1(b)(ii) as to whether that only implied notifying the relevant website addresses to the WTO Secretariat or something more. India would support a proposal to notify the relevant website addresses which the Secretariat could put on a common website for information of all WTO Members.

341. As for the proposals contained in TN/TF/W/36 concerning simplification, reduction and standardization of trade documents, India had already commented upon proposals such as the use of international standards, used of commercial documents etc., during previous meetings of the NGTF when it had focused on GATT Article VIII. India reiterated its position on those issues. However, that proposal contained an interesting new idea of establishing a common net-based "bank of documents" where the user could choose the language for filling in and/or printing out the respective documents. India recognized the trade facilitative potential of that proposal. However, India needed further clarity on that issue. A user could possibly only choose the language for a blank document but India wondered whether the data bank could also have the facility to fill in the documents in the chosen language. In India's assessment, that might not be possible because commercial data to be filled in in such documents might vary. India however supported that idea and encouraged further discussion on it.

342. With respect to the submission by Singapore on advance rulings (TN/TF/W/38), India welcomed the paper as an illustration of how a system of advance ruling worked in practical terms.

However, India wished to caution that India did not expect an outcome of TF negotiations to contain such detailed elements of procedure.

343. With respect to the proposals for prior consultation of laws and regulations contained in documents TN/TF/W/6 by the EC, TN/TF/W/7 by Korea, TN/TF/W//24 by New Zealand and TN/TF/W/26 from the People's Republic of China, India's domestic consultation with the Ministry of Law had indicated that a commitment of prior consultation could not be taken for what India understood as primary legislation. Primary legislation was made by the Parliament/State Legislatures or by the President of India making regulations under Article 240 of the Indian Constitution (in relation to certain Union Territories). Parliament/State legislature enacted laws on the basis of Bills introduced therein either by the Government or by a private Member. In the case of Government Bills, these were approved by the Cabinet. However, it depended on whether it was a Government Bill or a Private Member Bill as to the consultation prior to its introduction, and there were no hard and fast rules in that regard. Once the Bill was introduced in Parliament/State Legislature, it became their (i.e., Parliament) property and it was Parliament who decided whether the affected parties were to be consulted or not. Or the Bill might be referred to the Department Related Parliamentary Committee or the Select Committee/Joint Committee, or be circulated for the purpose of eliciting public opinion thereon, or it might be considered and passed without those formalities.

344. However, in the case of subordinate/delegated legislation, prior consultation would depend upon the provisions of rule or bye-laws, in its parent or controlling enactment. It could provide that, before making any rules or bye-laws, the same might be subject to previous publication. In view of that, India reiterated its comments made during the May 2005 meeting of NGTF with reference to New Zealand's proposal on the right to comment (TN/TF/W/24) that that commitment should not be too onerous and should only be in broad terms. India would also like to specifically add that such commitment would not apply to primary legislation made by parliament or State Legislatures or by the President.

345. As for the paper by the African Group (TN/TF/W/33), India generally supported the ideas contained in that paper. India would only like to sound a note of caution that a general demand for improvement of integration of African enterprises/economies into the international payment and insurance system should not be construed to mean expanding the scope of negotiations into those new areas.

346. India welcomed the China-Pakistan paper (TN/TF/W/29) on identifying trade facilitation needs and priorities of Members. The paper could serve as a good road map for developing and least-developed Members to identify their TF needs and priorities. Such an approach could lend greater depth of understanding regarding the universe of TF needs and priorities that the NG needed to focus on. However, India wished to caution that that exercise should be essentially Member-driven and that the choice of tools be left to Members to decide from amongst some broadly identified tools. India fully supported the proposal that the assessment of needs and priorities should take into account the unique situation of such Members who had vast regional economic diversities within their territories.

347. As for the paper TN/TF/W/37 by the European Communities, India appreciated the EC's commitment towards TA&CB. India wished to highlight the mandate under Annex D which stressed the need for support to developing countries and LDCs through TA both during negotiations and upon their conclusion. India supported a coordinated approach for TA in which the WTO would also need to play a role as per the mandate under Annex D.

348. The Chairman urged Members to make copies of their statements available to the Secretariat. This was crucial to allow the Secretariat to prepare the minutes of the meeting, especially in the current situation with the Secretariat being tasked with more and more, stretching its resources to the limit.

349. The representative of Colombia commented on earlier proposals, starting with those relating to Article V. The contributions submitted by Bolivia, Paraguay and Mongolia, Korea, the European Communities, and Switzerland, Rwanda and Paraguay reminded Colombia that freedom of transit was important for the multilateral trading system as well as for landlocked countries. All contributions set forth specific proposals to be undertaken on various fronts in order to improve and clarify the provisions of the Article, and pursued the same course as other proposals submitted in connection with Articles VIII and X.

350. Colombia particularly wished to endorse the proposals by Bolivia, Mongolia and Paraguay in TN/TF/W/28 which targeted non-discrimination between modes of transport used for transit of goods, origin or destination of goods in transit and the routes chosen for transit. Colombia found the proposal for a common checkpoint to be shared by authorities from adjacent countries to be appropriate. In the Andean region, arrangements were under way to set up Bi-national Border Service Centres and Colombia's authorities envisaged establishing several of them in the near future. Colombia also supported the proposal to simplify clearance for perishable goods by minimizing documentation requirements and expediting their passage through border customs controls.

351. With respect to Article VIII and the area of fees and charges connected with importation and exportation, Colombia endorsed the proposals by Japan, Mongolia, Chinese Taipei and Peru (TN/TF/W/17, 10 and 25) for publication and periodic review of fees and charges which, in Colombia's view, could be carried out at least once every three years.

352. It was important, in Colombia's opinion, to determine a method for calculating the administrative and operating costs of the import- and export-related services provided by customs, as any such charge should be strictly related to the cost of the service rendered, taking as a basis the proposals by Chinese Taipei in document TN/TF/W/25, and by the European Communities and Australia in TN/TF/W/23. For many developing countries, the sums paid for the provision of services amounted in some instances to a barrier to trade. Colombia wished to point out in that context that it levied neither consular fees in connection with importation or exportation nor charges on customs services.

353. With respect to formalities, Colombia had informed Members at the March meeting that the Colombian Government had established the Foreign Trade Simultaneous Inspectorate in order to coordinate the activities of entities involved in physical inspection of goods or in the examination of freight entering or leaving the national territory through ports, airports or border crossings.

354. Colombia therefore supported the proposals by Japan, Mongolia, Chinese Taipei and Peru (TN/TF/W/17) regarding formalities and inspection based on risk management systems. Colombia likewise endorsed the suggestions made by Australia and Canada on coordination of border agency procedures and formalities (TN/TF/W/19 and W/20).

355. Colombia was much interested by Korea's proposal (TN/TF/W/18) for harmonizing and standardizing document formats for foreign trade operations. Colombia wished to point out in that context that work was being done in the Andean region to implement a Single Customs Document with a view to simplifying and streamlining customs formalities for the entry and exit of Member countries' goods and to consolidating information.

356. As for substantial penalties for minor breaches, Colombia wished to reiterate its support for the proposal by Japan, Mongolia, Chinese Taipei and Peru (TN/TF/W/17) for clearly stating and publicizing penalty provisions for breach of import and export formalities, and for prohibiting the imposition of unpublished penalties.

357. Colombia was currently reviewing its penalties system, focusing on the proportionality of penalties as a rule of due process. The idea was that under the revised system, penalties would be proportionate to infringements.

358. As for the issue of goods clearance procedures and guarantees, at the March meeting Colombia had raised a number of concerns about the proposals from Canada and Australia (TN/TF/W/19) and the United States (TN/TF/W/21) concerning the creation of a mechanism for the provision of sureties so that goods might be released before customs decided on classification and the final value of duties payable. Having analysed the proposals and identified some difficulties that Colombia would have to overcome internally in the area of commercial limitations in the insurance sector, Colombia expressed its support for those proposals as it realised the benefits to be gained from swift goods clearance.

359. With respect to Article X, and the issue of advance rulings, Colombia had noted in previous comments that its experience with issuing advance rulings on tariff classification had been positive. Colombia therefore wished to reiterate its support for the proposals for implementing such a measure and at the same time proposed that advance rulings be issued in the following areas: tariff classification in accordance with the harmonized system and its updates; valuation standards; rules of origin; return, deferral and payment of taxes; and description of the charges, surcharges and taxes required for importation. In Colombia's view, it was important to set a reasonable period of time for its implementation and to study the experiences of various countries in that regard.

360. The representative of Pakistan said that the systematic approach taken by the Secretariat in compiling document TN/TF/W/43 was commendable. Pakistan did not see it as a mere compilation, but as a document which would stimulate structured discussions in the NG in the coming months.

361. So far, the NG had discussed proposals as they were tabled. From July onwards as the Group approached the Hong Kong Ministerial Conference, it was necessary to think about how to structure the discussions. One could discuss the proposals Article by Article, as suggested by the Philippines, or issue by issue, as listed in the compilation and suggested by New Zealand. In Pakistan's opinion, those two approaches were not mutually exclusive. Pakistan wished to echo New Zealand's suggestion to apply the issue-by-issue approach as it would help to better identify the measures which could possibly be included in any future TF agreement. One could always cross-reference those issues with Articles V, VIII and X. Pakistan was open on that issue and encouraged the Membership to refine its thinking and the work of the Group.

362. The representative of Indonesia said that the Secretariat's compilation was clear, concise and useful to help Members study further the proposals tabled. Indonesia wished to request the Secretariat to timely update the compilation to incorporate new proposals.

363. With respect to the proposals by Japan and others on risk management to improve the relevant aspects of Article VIII, Indonesia wished to highlight that the improvement of risk assessment and management techniques would provide greater accuracy of the investigation of goods during release that led not only to smooth inflows of goods but also strengthened customs controls. Therefore, by having risk management, one was creating a balance between TF and controls that was desperately needed in the WTO process for both trade and customs. To that end, Indonesia wished to suggest an exchange of risk management techniques between Members so that they could learn from each other to obtain a clearer picture of the practice of risk management. In addition, Members would also learn from the WCO which had long experience in developing risk management techniques.

364. Indonesia's experience with applying risk management had shown some problems that should be properly addressed to enable Members to increase further the TF initiatives suggested by some proposals. Adjustment problems covered the areas of how to increase the accuracy of import and

export data; how to use information technology in an optimal manner, and how to enhance capacity building, technical assistance as well as training.

365. Furthermore, Indonesia was of the view that some of the proposals needed to be clarified. Under section II, paragraph 4, Canada proposed a Single Window with Korea proposing a Single National Focal Point in TN/TF/W/37, paragraph (d). For that purpose, it was defined that a Single Window was the environment where national Single Windows operated and integrated. The function and roles of a national Single Window were based on a single submission of data and information, of a single and synchronized processing of data and information, and a single decision making for customs release and clearance.

366. A single decision making was uniformly interpreted as a single point of decision for the release of charges by the customs. On the basis of decisions they could by-line authorities and communicate it timely to the customs. Indonesia believed that that system would enable Members to reap the benefits from simplifying trade procedures. However, that would require many additional resources and infrastructure to fully connect between agencies dealing with ports and customs authorities. In Indonesia's view, in practice, Members would face many problems and difficulties. There was lack of ability, infrastructure and differences in the level of development of IT inter-agencies. There was also a difference in knowledge between agencies as well as SMEs. They did not have the capability to invest in infrastructure. TA&CB was required.

367. Regarding Japan's and Mongolia's proposal in TN/TF/W/17, paragraph 5, concerning the review of fees and charges, Indonesia believed that to be a good proposal which would bring greater stability and transparency. In Indonesia's view, it would enable Members to increase the efficiency of administration. The growing privatisation of fees and charges in the ports would be determined by market forces. In that regard, governments would have difficulties to establish the suggested periodical review. Such a review would involve separate decrees from inter agencies. In practice, it would be very time consuming and would create additional costs.

368. With regard to Chinese Taipei's paper in TN/TF/W/44 on the experience in establishing a system for immediate release of express consignments, Indonesia recognized that the paper was quite comprehensive as it captured and identified problems for the immediate release of consignments. Indonesia wished to inform the Group that it had implemented express consignment procedures. However, the procedures were only applied for goods having a sensitive character, such as, among others, human organs, live animals and plants, newspapers delivered by express consignments, and other goods stipulated directly by the director-general of customs and excise. Concerning the goods delivered by express consignments, goods had to be exported by the use of an airway bill. As regards financial guarantees, Indonesia believed it was a good proposal as it provided for the facilitation of express consignments. However, for the sake of certainty, Indonesia enforced financial guarantees that could be received from the importers. However, when the goods' value was less than US\$ 50 per shipment, a customs duty was not imposed.

369. The representative of Paraguay welcomed the statements by Brazil, the Philippines, India and Colombia on proposal TN/TF/W/28 on behalf of Bolivia, Mongolia and Paraguay, as well as the questions on some of the points raised therein. Since the proposal was sponsored jointly by several delegations, it was requested for delegations to submit their questions on the paper in writing. They would then also be answered in writing and circulated for the next meeting of the NGTF.

370. The representative of Jamaica said that the Secretariat compilation not only assisted the process of establishing an inventory of trade facilitation measures, as suggested by New Zealand, but could also assist in the process of establishing an inventory of what of the proposed measures were in place and in which Members states, as suggested by Jamaica in its intervention at the March meeting. Jamaica wanted to supplement its earlier comment on the submission by the African Group

(TN/TF/W/33). In general, as Jamaica had indicated, Jamaica was in agreement with the principle and substance of that submission.

371. With respect to section 2 on the scope of the negotiations, Jamaica wondered whether it would not be prudent for the African Group to include footnote 1 of Annex D relating to the possible format and outcome of the final result of the negotiations.

372. Regarding section 3, supporting TF needs and priorities, Jamaica endorsed the needs and priorities set out in that section and recognized that those were some of the concerns which had also been encountered in the Caribbean region.

373. Jamaica endorsed section 4 addressing cost implications, particularly paragraph 9 on the establishment of a mechanism for the provision of TA. Jamaica wondered, however, whether the timetable of July 2005 was still feasible and whether the African Group had given any thought to proposing a new date for the establishment of that mechanism.

374. On paragraph 10, Jamaica thought that the support during the negotiations should include the NGO sectors and other key stakeholders. On section 5, dealing with SDT, Jamaica agreed with the principles as set out.

375. As for section 6 on inter-agency cooperation, Jamaica was of the view that that should not only be multilateral but should also include regional bodies. Jamaica also felt that Members needed to explore expertise at the regional level. What was not clearly expressed through the African submission, however, were the challenges associated with the inter-agency work. That was required as part of the implementation process. Extensive collaboration would become necessary, particularly in the NGO community. A large community of actors was affected by TF measures and there would be a need to strengthen the associations with the relevant government agencies there. For example, in Jamaica's case, Jamaica would need to review all relationships with key agencies in associations like all port authorities, customs brokers or shipping associations.

376. With respect to section 7, Jamaica shared the concerns that the proposals so far provided for no new resources and agreed on the need to operationalize SDT instead of the best-endeavour proposals currently on the table.

377. The representative of Kenya supported the views expressed by India and the Philippines that, with respect to the compilation, other than cross-cutting issues, the issues reflected in that document should be listed by Article.

378. Kenya understood the difficulties relating to the issue of overlaps in that context while at the same time believing that, in line with the mandate, the issues should be listed by Article. It would also be useful for the compilation to capture in a focused manner the observations and the concerns expressed by Members on the various proposals to balance the Group's work.

379. The representative of the Philippines said that, while the Philippines still had various questions concerning previous submissions, due to time constraints it would submit them in writing. It would be useful if all responses could be compiled together. The habit of responding to questions in writing would help demystify some of the proposals on the table. The Philippines had found it very useful to receive written responses to its questions.

380. The representative of Switzerland recalled that, in the joint submission with Rwanda and Paraguay, Switzerland had mentioned that certain proposals might be of a best-endeavour nature. In response to Korea's question about which of the common features listed in the proposal were intended to be of a best-endeavour nature, Switzerland wished to say that Members had not yet had sufficient

discussions on those proposals to decide or propose which of them would be of which nature. That would be left for a later time.

381. In response to India's questions, Switzerland wished to note that, while the Swiss delegation would not be able to speak on behalf of the other co-sponsors Switzerland had found the Indian comments to be very accurate. For instance, their point that special procedures for transit should be a best-endeavour clause depending on infrastructure constraints and the volume of traffic involved at certain border stations was shared by Switzerland. It was not intended to be a general aspect but rather something which should be targeted to the physical and local conditions. Switzerland also tended to agree on India's other point that physical inspection had to be commensurate with the risk involved. It had not been Switzerland's intention to say that physical inspection would be prohibited. Rather, the point that Switzerland had wished to make was that there should be a difference between how goods were dealt with, and whether it was for imports or for transit. The rate of physical inspection for goods transit should be lower than the one for import.

382. The representative of Korea said that, in order to respond to questions raised at the last meeting by delegations such as India, Kenya and the Philippines and Egypt, and to further understand the intentions reflected in Korea's proposal, Korea had decided to circulate a written response to the questions as a job document. Any further questions would be answered in due course.

383. The representative of the European Communities wished to respond to a number of questions raised on some of the EC's proposals, particularly from India. The EC would also try to reply in writing to some of those questions and comments as they had done with other questions.

384. With respect to India's question about what international standards or instruments could be referenced in the area of transit, the EC would provide a full list of its views, but examples of those standards applied by customs to transit operations and procedures included the UN Layout Key for documentation, the ATA Carnet System and the TIR Convention. The EC had also proposed the WCO Data Set, a privileged international standard for customs data services, which equally applied to transit data.

385. As for India's question about which proposals within the framework of Article X could also apply to Members' transit rules and procedures, the EC was of the view that, amongst the proposals made by the EC and others on Article X, first of all, that would particularly be the case for the requirement to publish and make readily available, laws, regulations, requirements and guidelines applicable to transit. Second, the principle of some form of consultations with the affected trading community equally applied to transit procedures. And third, the need for a domestic enquiry point of some kind, would obviously include the possibility for traders to make enquiries about domestic transit rules.

386. With respect to India's request for clarification about the EC's proposal that Article VIII-related fees and charges could also *mutatis mutandis* apply to fees and charges in transit, the EC was of the view that there was a good argument that, as with Article VIII fees and charges, similarly as regards transit in fees and charges, those fees should be published. It should not be permissible for a government to levy fees if there was no regulatory basis for them. Second, the fees should reflect the costs of the service provided. In that context, it was recognized that, as far as transit was concerned, the service provided could include the costs for providing and maintaining the transit route. Third, the fee for the transit operation or transit service should not be levied on an *ad valorem* basis because *ad valorem* fees, by definition, did not reflect the cost of the service provided to the transiting consignment. Those were the three principal respects in which the EC proposals regarding fees under Article VIII would equally apply to fees and charges for transit.

387. With respect to India's question about fixed installations, suggesting more discussions, and asking whether the EC's reference to fixed installations was limited to pipelines and similar fixed installations, the EC could clarify that that was actually the case. What the EC had thought of were in fact pipelines or goods for energy transmission. There were no other significant fixed installations the EC was currently aware of. If there were any, the EC would be happy to learn about them. The EC agreed with India that transit was essentially a simple procedure. However, on the point of the use of risk management techniques or authorized consignee therefore being less relevant or less applicable, or that it could be done in a minimum way, the EC suggested to further reflect on that. It was true that it was probably not necessary to have extensive risk analysis, but the EC had found that risk analysis was still very useful because, by applying risk analysis and risk management techniques one could reduce the level of controls which was good for the administration and also allowed to operate the system of authorized consignees which simplified matters on both sides. The EC would be happy to provide more details on those two aspects in their written replies.

388. The representative of Argentina introduced document TN/TF/W/41, explaining that it was a communication that had been sponsored by a range of Latin American countries. Argentina would first make some general comments to give an idea of the context within which the communication was submitted and the reason and thinking behind it. Bolivia would then present the more substantial part of the document.

389. Looking at document TN/TF/W/41 (and Add. 1 and 2), one saw that that communication originated from the following Members: Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, the Dominican Republic, and Uruguay. That communication was very much the fruit of joint reflection by various delegations. The Group of Latin American countries which had looked into it with the view to facilitate trade was not a homogenous one. All countries were at very different levels of development and had different customs practices. Some were more advanced, others less. Some states were currently implementing the process thanks to regional or bilateral agreements, which was important, as it provided an idea of what could be done and what could be translated into the multilateral arena. There was a whole range of situations and capacities.

390. Despite the differences, the group shared the same goals. All delegations attached great importance to TF measures and to the outcome of the negotiations, which was something that could be translated into the NG's work. There were no differences amongst delegations in that regard and there were no differences in thinking of what Members should achieve with TF. Everybody agreed on it being a positive thing. There were simply nuances regarding how Members were able to assess the capacity of shouldering certain commitments. The document therefore tried to answer the question of how Members should be designing disciplines or a possible agreement on TF, and how Members could bring together a substantial level of ambition while at the same time giving guarantees to Members who were going to have to implement those commitments. When discussing those issues, it had become clear that the answer to that question was to be found in Annex D.

391. The communication did not simply deal with Annex D as a starting point to Members' discussion. It was the end point and the outcome. The basis and the elements contained in Annex D should be reflected in the final outcome in designing future TF disciplines.

392. Obviously, progress achieved to date was important and the discussion of measures and specific proposals was important regarding Articles V, VIII and X. But it was equally important that Members did not overlook the general context, or the actual design of the disciplines themselves. Members had an historic opportunity to design an agreement which was different to the ones that had been traditionally drawn up in the WTO such as the many agreements that had emerged from Negotiating Rounds such as the Uruguay Round.

393. At that time, commitments had been established with thought being given to TA only afterwards. The TA had been basically to implement or assist with the implementation of the commitments. As a result, there had been examples of many countries not being able to live up to their commitments. Looking at the areas of Import Licensing or Customs Valuation, for instance, one had seen that, a whole series of countries who had failed to respond to their notification requirements. The reason for not notifying had not been negligence. Rather, those countries did not have the required human resources, capacities and infrastructure. One should avoid the same situation in the area of TF. Trade Facilitation had much potential and could bring massive benefits to many. And Members were able to design the appropriate mechanisms to actually achieve that. The whole design of future disciplines and the final agreement had to be different. The basis was to be found in Annex D of the July Package. It was an excellent opportunity to design a new type of agreement based on a new type of cooperation between international bodies and countries, with or without the capacity, so that slowly but surely each Member could take on board the commitments effectively in order to have a proper outcome.

394. The representative of Bolivia wished to add to what Argentina had said about the submission by the Group of Latin American Members, which compiled the views of South and Central America, reflecting their commitment to move the WTO negotiations on TF forward.

395. In the course of the recent multilateral negotiation process, those countries had become acquainted with the problems confronting every Member. They had also benefited from constructive and innovative suggestions concerning GATT Articles V, VIII and X, the framework of rules to be improved and clarified as prescribed by Annex D. Some Members had, in addition, raised other aspects of the mandate as reflected in every draft agenda of the Group's meetings.

396. With all the material and tools that Members now had, the co-sponsors of document TN/TF/W/41 believed that for the remainder of the negotiating process, account must be taken of the links between the various elements of Annex D, and that that should be properly reflected in the final result of the negotiations, to quote Annex D: "without prejudice to the possible format of the final result of the negotiations and would allow consideration of various forms of outcomes".

397. That implied that for developing and least-developed countries: (i) the scope and the commitments to be adopted must be in line with their implementation capacity; (ii) the capacity to implement new commitments must be determined on the basis of their needs and priorities in TF; (iii) TA&CB must assist the implementation of the commitments resulting from the negotiations; (iv) special and differential treatment must, as the mandate indicated, go beyond the customary granting of transition periods for the implementation of commitments and must be horizontally related to each of the elements of Annex D.

398. With respect to how such an interrelationship should be dealt with in terms of adopting future disciplines, the co-sponsors of the paper were of the view that, as developing countries, their ambitions for this area of the negotiations were fairly high. Consequently, they foresaw that, in order to apply some of the future rules they agreed on, there would be need for resources, CB and, possibly, institutional adjustments in some cases. Despite their political resolve to give effect to new rules, there might be difficulties that exceeded their implementation capacities.

399. Bearing that in mind, the co-sponsors believed that for the adoption of future commitments, work should be done on assessing the implementation capacity of each Member, so that the new commitments might be executed in the best possible manner and in accordance with the capacity, level of development, and trade needs of each Member.

400. The process already under way of identifying needs and priorities was essential to the implementation of the proposal and must be pursued in parallel to the identification of future

commitments during the negotiating process. It would be necessary to carry out a diagnosis of the real implementation capacity of each Member, and the suggestion was that each Member should conduct a self-assessment process with the necessary TA. Such a procedure, which in all cases should be carried out in parallel, would assist in the task of defining what was needed in terms of TA&CB in order for the commitments to be implemented effectively.

401. A further proposal was that a deadline should be set for Members to report on their actual capacity to implement the new commitments. Where there was no demonstrated capacity for their immediate implementation, differential transition periods were proposed, combined with TA&CB programmes geared to the obligations to be assumed and the analysis of national needs and priorities. That would afford assistance for the implementation – albeit gradual – of the new commitments where it was needed. It was important to note that, while such TA&CB programmes were ongoing, the commitments would not be enforceable, in accordance with the modalities for the negotiations.

402. In the interests of the developing and least-developed countries, new disciplines should be devised, with the support of TA&CB programmes, with a view to ensuring that future obligations were actually fulfilled. The co-sponsors of TN/TF/W/41 accordingly suggested giving consideration to whether it would be appropriate to establish a mechanism to organize and coordinate such action, taking into account donors, recipients and other international organizations with a view to ensuring that the TA corresponded to the recipients' needs.

403. In keeping with Annex D, the principle of SDT, having been taken into account, horizontally, in the interrelationship of the elements of Annex D, must effectively be reflected in the adoption of new WTO disciplines on trade facilitation.

404. The representative of the Dominican Republic associated his delegation with the Latin American group and wished to co-sponsor document TN/TF/W/41 because it met the interests of many developing countries in the TF negotiations and, above all, because it placed adequate emphasis on the essential aspects contained in Annex D for the negotiations on that topic. All of those elements should be taken into account as they touched upon the interests of many countries, particularly in the Caribbean region.

405. The paper was eminently constructive, favouring the progress in the negotiations and contributing to moving them forward, taking into account in a various balanced way the diagnosis of each country's TA and S&D needs.

406. The document brought together very clearly some important points discussed earlier in the NG and referred to in their statements by many countries from Latin America and Africa. More particularly, it set out some key ideas that would have to be considered in the course of the negotiations.

407. In expressing the Dominican Republic's support for the Latin American paper, the Dominican Republic wished to stress that the evaluation of the substance of the proposals submitted to date showed how close many of the positions were and that there was no divergence of views over many of the points raised. There was a large degree of consensus.

408. The Dominican Republic therefore believed that the issues of resources, TA, CB and SDT should be viewed as favourably and with the same absence of disagreement as the other substantive matters that had been addressed in earlier meetings. In the Dominican Republic's opinion, those proposals should be incorporated in a practical manner in the final results of the negotiating process.

409. The representative of Costa Rica was pleased to announce its co-sponsorship of document TN/TF/W/41 presented by Argentina and Bolivia on behalf of many Latin American countries.

410. Costa Rica was highly satisfied with the progress the NG had made to date, evidenced by the large number of proposals and the level of participation by Members. Although some proposals had emphasized rules, on grounds of logic, Costa Rica believed that there was a need to consider in greater depth how the proposed measures, the identification of needs and priorities, TA&CB, and SDT should interact and be inter-related in future disciplines.

411. One objective that Members should consider and which Costa Rica believed should be stressed, was that of ensuring, through the disciplines Members agree on, that developing and least-developed countries made the most of the benefits to be derived from TF.

412. Costa Rica had always held that, in order to define or have an idea of costs, benefits, the amount of assistance needed and the type of SDT Members required, it was first necessary to have a notion of the measures Members might have to implement. Members now had a sizeable framework of rules, as witnessed from the compilation prepared by the Secretariat. That regulatory framework could go some way to enabling each Member to examine its own situation, as Malaysia had done, so that Members could determine the kind of assistance and SDT they required.

413. That was why from now on, a relationship between the rules component, the identification of needs and priorities, and TA, was essential. It was this inter-relationship that would enable Members to obtain instruments to establish and put into effect SDT that was in keeping with the measures Members agreed on and their capacity.

414. Costa Rica furthermore emphasized that the components of that relationship should be dealt with in parallel, as China, Pakistan and Peru had noted in their submissions. Costa Rica had already expressed the view that the process of identifying needs and priorities should not be separated from the negotiating process. Members had to know what kind of measures could be included in a future agreement in order to facilitate the task of ascertaining what their needs and priorities were as well as the costs and working of the agreement.

415. Members had an opportunity to be creative in the negotiations and to devise disciplines that would secure the commitment of all Members to facilitating multilateral trade, setting a balance between such commitment and sufficient cooperation and CB to implement the future agreement.

416. The representative of Brazil fully supported the statements by the other co-sponsors of document TN/TF/W/41, in particular by Argentina and Bolivia. The proposals aimed to draw attention to the fact that Members were advancing fast and well in one part of the mandate but not in another. So far, the NG had discussed many proposals on the improvement of Articles V, VIII and X. Members had had a good exchange of views and had raised their concerns, which in turn had prompted further explanations from the proponents. Yet, when it came to TA, SDT and the identification of priorities, work was lagging behind, as had already been noted at the last meeting in the proposal presented by the African Group.

417. Proposal TN/TF/W/41 also aimed at pointing out that work had to progress in a balanced way. The objective was to ensure that the negotiations were successful and that all elements of the mandate were properly taken into account. Failure to do that could create a problem at the Hong Kong Ministerial Conference. A number of participants had shared their experience and their efforts to supply technical cooperation and assistance in the area of TF with developing countries. As important and commendable as those initiatives were, they were not sufficient to fulfil the mandate. The modalities for TF negotiations established a very clear link between assistance and the implementation of any new commitment. That required targeted and timely action. Since the needs would depend on the nature of any new commitments, Members should not wait until the negotiations finished. The modalities highlighted the need for support and assistance during the negotiations. That was all the more important in the effort to identify the TF needs and priorities of developing countries.

418. With respect to the evaluation process, Brazil had come across the difficulty of defining the parameters for that and of deciding whether one should use the WCO's Customs Capacity Building Diagnostic Framework as a basis for that or not, and how to avoid duplication of efforts with other relevant organizations. Those were important questions Members should face. They had to discuss all of that in order to allow countries to engage in the parallel exercise right away. Perhaps Members could tackle those difficulties by having at one of their next meetings presentations by some international organizations of their projects and the criteria they had and how they established them.

419. The representative of Panama highlighted the elements which were very important and useful in proposal TN/TF/W/41. Panama was committed to the TF negotiations process and considered that the disciplines inter-related in the management of transit and clearance of goods were key factors to boost the competitiveness, transparency and efficiency of export and import procedures. For that reason and to achieve the objectives mentioned in the proposal, Panama supported the proposal very strongly. The suggested parallel approach would be very fruitful to follow the negotiations and would enable Members to build the necessary capacity to maximize the benefits of future possibilities on which Members could agree in the negotiations.

420. The representative of Paraguay was satisfied to observe that work in the NG was gathering momentum and hoped that consensus would be reached in due course on the adoption of commitments that contributed to facilitating trade. The elements of Annex D would be of relevance in that context: identifying needs and priorities, implementation capacities, TA&CB, and SDT.

421. In order to put forward some views on the ways in which the above-mentioned elements could interact and interrelate with future disciplines that might emerge from that exercise in the interests of all Members, 16 Latin American countries had joined forces to produce document TN/TF/W/41.

422. As Argentina had aptly pointed out, failure to apply multilateral trade disciplines was not an uncommon occurrence, since the obligations those disciplines imposed were beyond the material and/or technical means of those who had to apply them. That was why Annex D provided Members with a series of tools which had to be used in the process of clarifying and improving the Articles pertaining to trade facilitation if future commitments were to be commensurate with each Member's actual capacity and to meet their trade needs and priorities.

423. In order to make that possible, TN/TF/W/41 proposed a process of self-assessment to be conducted by each Member in the area of TF, in parallel to the process of devising and adopting disciplines. That exercise should reveal the needs and priorities of Members, their actual capacity to implement the commitments, the time required to assume them and the type of assistance required to cover the gap separating them from the capacity to fulfil the commitments. In Paraguay's view, such an assessment should be carried out as soon as possible, according to an orderly procedure agreed upon in the NG.

424. Paraguay wished to draw attention to some other key components of the proposal: (i) the establishment of differential periods for implementing future commitments, to be set on the basis of each Member's needs and priorities; (ii) the designing of assistance programmes to prepare Members that so require to assume each of the future commitments; (iii) the organization and coordination of technical assistance and capacity creation in the area of TF, bringing together donors, recipients and other international organizations.

425. Those measures would obviously be geared towards developing and least-developed Members. The ideas set forth in TN/TF/W/41 were open to discussion and further development. To that end, future contributions to add to or modify them would be most useful.

426. The representative of the Philippines welcomed the discussions on TA&CB and the pool of proposals on that issue, particularly TN/TF//29 from China and Pakistan, TN/TF/W/30 from Peru, TN/TF/W/33 from the African Group, and TN/TF/W/41 from a group of Latin American countries which were a good starting point for discussing what TA really meant under the current negotiations.

427. The Philippines recognized that in the China-Pakistan proposal, there seemed to be emphasis on the continuing nature and need for a mechanism for a continuing needs and priority assessment and implementation of capacity building issues. The Philippines noted also the Latin American proposal, which seemed to focus on an abbreviated and early arrival at what exactly the measure of CB would require to be integrated in the current negotiations. The Philippines believed that further discussion on that question would be very helpful to consider what would really be the framework for TA&CB.

428. The Philippines noted also the submission in JOB(05)/101 from Japan which contained examples of the very specific programmes of TA that Japan undertook, as well as submission TN/TF/W/37 from the European Communities which itemized the various existing bilateral programmes the EC had. On page 11 of the EC submission, more than fifteen projects totalling a cost of 400 million euros for infrastructure projects had been enumerated. It would be a good opportunity to understand how existing TA already undertaken by developed countries would fit into the negotiating agreement that the Philippines hoped to arrive at.

429. The representative of Venezuela supported document TN/TF/W/41 as it reflected in a very clear way the mandate under Annex D. It was a vital step to make sure that developing countries and LDCs were in a position to understand the scope of the new commitments, the cost of their implementation and their TA needs in that process.

430. As Argentina had pointed out, that was extremely useful because Members had the historic opportunity to design an agreement which responded to all of the concerns and needs of developing countries in a subject which could help them fulfil their development objectives. Venezuela also shared the views expressed by Paraguay with regard to the parallel assessment with the view to identifying national needs and priorities and capacity for implementation. Venezuela hoped that other delegations would give high priority to the Latin American proposal.

431. The representative of Egypt said that the paper provided important details on one of the most important aspects of the negotiations.

432. With respect to paragraph 9, Egypt shared its interpretation of Annex D's elements. Egypt also considered that compliance with new obligations should be commensurate with the implementation capacity of each Member. However, Egypt would be interested in having more information on the proposed self assessment process. Would that be left to each Member or would it have to be carried out according to agreed guidelines? Would it be subject to review and what would be the possible time frame for such a process?

433. On paragraph 12, in the event that developing countries or LDCs had no or limited proven capacity for the implementation of new commitments, which authority would be responsible for determining the transition period they could benefit from? How would such transition period be determined and how would the result of a TA&CB programme be directly linked with the length of the initially said transition period?

434. With respect to paragraph 12, setting out the idea of establishing a mechanism to organize and coordinate TA&CB in the area of trade facilitation, Egypt would be interested in knowing how such mechanism could be practically organized, having in mind the mechanisms already in place which included, *inter alia*, the OECD/WTO database on TA&CB and the Global Facilitation Partnership

(GFP) and Inter Agency Meetings on TF and the International Trade Procedures Working Group. The purpose of Egypt's comment was to stimulate further discussion.

435. With respect to the suggestion made by the Philippines to redraft document TN/TF/W/43 according to the three Articles, Egypt had taken note of the views of the Secretariat regarding some of the submissions being cross-sectoral. Maybe one could still structure the paper according to the three Articles, and also have a fourth title perhaps called "cross-sectoral proposals". Egypt also supported the suggestion to have a compilation of the proposals under SDT, as well as the concern or the questions posed concerning the different proposals.

436. The representative of Korea appreciated the Latin American contribution on the inter-relationship between the elements of Annex D and the development of some ideas and a possible approach to be taken.

437. Generally, Korea admitted that any commitment agreed upon in the WTO should be followed by its implementation. The paper clearly showed the close inter-relationship between that commitment and its implementation. For that purpose, finding out Members capacities and the required SDT and TA&CB was a crucial element for the full implementation of any commitment. Therefore, in principle, Korea agreed with that approach. But in practice, Members were now in the process of figuring out all the elements for the final outcome of the negotiations. Therefore, even though Korea admitted the usefulness of discussing that commitment and the relationship with its implementation, in practice it was too early, or too difficult, to fully discuss what kind of SDT elements and what kind of implementation capacity was needed.

438. Furthermore, it was necessary to have more clarity on the approaches such as self-assessment and on the reporting system. Korea associated itself with the intervention by Egypt on the process to identify Members' needs and priorities by self assessment and on what had been said about how to report. With that clarification, Korea was ready to discuss that further at a later stage.

439. The representative of Switzerland commented on the proposal by the group of Latin American countries, noting that it had helped to clarify Members' expectations from those negotiations.

440. The submission stipulated the interrelationship of the various elements contained in Annex D, namely the rules setting, the identification of needs and priorities as well as TA&CB, while at the same time being linked to SDT. In doing so, the paper concluded, a new form of cooperation between Members was outlined, aimed at ensuring that developing and least-developed countries had real capacity to implement the new commitments.

441. Switzerland agreed with the layout of the paper. Yet, the difficulty lay in how to make the inter-linkages operational and form a coherent system suitable to all stakeholders in the negotiations. There were some key paragraphs in the submission. One of them was paragraph 9 proposing the implementation of commitments to be gradual in the way best suited to the capacity, development level and trade needs of each Member. On the one side, Switzerland was tempted to agree with the proposal, but on the other, Switzerland was reminded by many discussions that the countries encountering the greatest difficulties in implementing TF measures because of them going beyond their administrative and institutional capabilities were also the ones whose trading possibilities had not yet developed to their full potential. Moreover, TF measures were part of the measures that contributed positively to a country's investment climate. That aspect should not be neglected when looking at the proposal.

442. In order to fully understand the proposal, Switzerland sought clarification on whether the gradual implementation would be freely chosen by each Member or whether there would be some criteria and time horizons developed to guide it.

443. Switzerland had proposed a modules- or package-based approach. That concept included a basic package of commitments to be undertaken in the form of general principles primarily requiring administrative measures to implement, to which all countries should subscribe on relatively short notice. Subsequently, there would be a limited number of additional packages, each of them containing a number of increasingly demanding measures both in terms of resources and implementation capacity. An aspect Switzerland was still working on was how Members would negotiate compliance with those additional packages.

444. Whatever the approach was, one should not lose sight of the fact that a number of TF measures were interlinked. Sequencing of measures was thus very important. When sequencing, Members should look at three aspects: (i) the complexity of implementing a measure and required resources; (ii) whether the implementation of a measure required the prior implementation of another measure; and (iii) the leverage of a measure on facilitating trade.

445. Paragraph 10 of the Latin American paper stipulated that the identification of needs and priorities be effected in parallel to the identification of future commitments. Although Switzerland fully agreed with that in the light of what followed in the same paragraph that the diagnosis would serve to determine each Member's real situation and the distance separating it from the capacity needed to implement obligations to be agreed in the future, Switzerland also recalled what the World Bank had mentioned at the last meeting on it being difficult to fully assess the consequences for a country as long as the commitments were not further defined. Switzerland therefore wondered whether there were not two phases of assessment required: one to roughly evaluate the data and another, more in-depth one, leading to implementation plans and the full assessment of technical and financial means available domestically as well as of, as necessary, external resources needed.

446. The submission further stated that, when rules were considered for possible adoption in the WTO, simultaneous consideration should be given to TA so as to guarantee the viability of their implementation. Could the proponents of the submission give further explanation on what they meant by "simultaneous consideration"?

447. In its intervention at the May meeting, Switzerland had been talking about a mechanism of the kind mentioned in the Latin American submission. It had been proposed to determine a multilateral platform, including multilateral agencies, donors, concerned developing countries, trade federations and interested companies. The role of the multilateral platform could be to coordinate assistance to Members, to organize necessary funds from donors as well as monitor the delivery. The drawback of such a solution was that the same actors would organize funds, provide assistance, and implement and monitor success. Therefore, Members had to consider whether it was not necessary to separate certain functions in order to keep a certain independence and objectivity which could be delegated to some kind of technical committee of independent, internationally-recognized experts acting in their personal capacity. Those were just very preliminary ideas, subject to revision in light of subsequent discussions.

448. With respect to the communication by the European Communities, Switzerland welcomed its second part. Switzerland agreed with the stipulation that any commitment should not apply until the Member in question was in a position to implement them. It also said that, in the meantime, technical assistance should be directed to helping those countries not having the resources to build up the necessary domestic capacities. The submission was also suggesting that some more specific arrangements should be put in place in order to strengthen the link between the negotiation and implementation of any future commitments and the provision of TA&CB, and proposed five elements

around which such arrangements could be articulated. Switzerland believed that those five elements were interesting and deserved to be looked at more closely. Yet, Switzerland would appreciate additional explanations on how to operationalize that.

449. With regard to transition periods, the EC made an important statement: transitional periods should in any case be linked to any reform or modernization programme under way in a country. In Switzerland's view, Members had to be very careful when considering proposals suggesting total exemptions or indefinite transition periods. Turkey's paper TN/TF/W/45, for example, suggested that developed countries publish all regulations in one of the WTO official languages, but that it would be unfair to request the same from developing countries. In that case, Switzerland wondered if traders, including from developing and least-developed countries, would at the end of the day not be disappointed by the implementation of the measure. Quite a few, if not all developed countries already published the relevant information, or at least part of it, in one of the official WTO languages. If the information was not available in the major trading markets, traders would invest to get the information in a suitable form. However, if trading information was not available in less important markets, traders would not make the effort to get the information and would simply turn their interest to other similar markets where such information was available. Therefore, Switzerland was not sure who would complain at the end for not having the information available, the trader or the developing-country Member. On the other hand, Switzerland fully agreed that the measure proposed by Argentina was very costly and that Members thus needed to carefully reflect what information had to be available and in which form and language.

450. The representative of El Salvador said that the content of document TN/TF/W/41 was a reflection of the logic of the negotiating process. El Salvador did not want to go into detail about the content, but wished to address the logic behind the communication. Currently, some countries had real capacity to implement, which meant that they could get the process going with a view to implementing what was contained in Articles V, VIII and X. In the negotiating process, stress was laid on the fact that, when discussing a future rule, work had also to be carried out at the same time on the identification of needs and priorities and SDT, TA&CB. That was where a Member could decide whether it was in a position to adopt a measure and to what extent it was able to implement those new future commitments. It was important to know what was the real and future capacity to implement the rule or commitment and to know the difference between real capacity and current and future capacity.

451. The document talked about TA, CB and other resources which could be identified as Members moved forward, thereby establishing the capacity to implement the rules. That was a basic element for a developing or least-developed Member to know whether it was in a position to comply with the rules. There had been slightly different standards adopted by countries. If Members were to enter into the commitments identified in the negotiating process, that was essential.

452. The representative of India said that the inter-linkage between commitments and TA highlighted in the paper was already provided for under Annex D. The time was now ripe for Members to look at that issue and see how they could creatively put that concept into practice. From that perspective, India also felt that the paper was timely as it provided some ideas which were useful for all Members.

453. India felt that a key issue was how Members linked TA to the likely commitments. The paper suggested the important principle to establish a mechanism to coordinate TA&CB efforts of donors, recipients and other international organizations. That was an interesting idea and a way in which Members could move forward. It had to be worked out in tandem with what had been suggested in paragraph 10 on Members themselves identifying their needs and priorities. If TA was required, it should be forthcoming.

454. On the whole, India felt that it was a paper which had rightly thrown in some important ideas. Members had to discuss that further to see how they could elaborate on that. Perhaps, Members could discuss it in more detail at the next session where TA issues would be discussed in greater detail.

455. The representative of Chile said that the document Chile had co-sponsored would change in the light of the negotiations. It was work in progress.

456. The self assessment mentioned in paragraph 10 was a continuous process rather than a two-stage one. The process had already started and was what all Members were engaged in. It allowed to address all aspects present in the negotiations. The self assessment would continue to develop as Members got a clearer picture of the disciplines. It would help Members establish exactly what could be implemented and what time and other requirements were needed to implement certain aspects of the disciplines that Members could not take on board at day one. It was an individual self assessment and some countries might need TA to assist them in making that assessment.

457. The issue of coordinating technical assistance mentioned in paragraph 15 was another element highlighted in the document. As India had pointed out, it was not totally developed as an idea, but Chile wished to carry on working on that area and it therefore attached great importance to the idea.

458. The EC's contribution on TA in its Article VIII-paper was an extra input to that discussion which Chile wished to carry over to the next meeting.

459. The representative of the United States said that the United States agreed completely with what had been said by Chile, India, Brazil and Egypt, which spoke well of the approach pursued in the Group, and by the Chair.

460. The discussion on the Latin American paper reminded the United States of the question of themes and references to the GATT Articles raised earlier with respect to the Secretariat's compilation. The United States was of the view that when, for example, considering what was being discussed by that paper, one would be thinking in terms of themes and types of provisions. On the other hand, the United States fully understood the point made by the Philippines and India with regard to the mandate and the relevant GATT Articles. What the United States would therefore like to suggest was to see whether there was a sort of duality that could be captured in terms of both thematic sorting of the proposals as well as benchmarking or noting with regard to the specific GATT Articles they relate to. For the United States, it was just a matter of practicality.

461. The Latin American paper reflected an interesting range of developments as well as an interesting range of countries. But there was also a common theme that the United States also shared strongly. It was a very timely paper which the United States particularly welcomed because it brought together all the elements and did so in the context shared by the United States. The paper usefully addressed how those elements should interact and interrelate in future disciplines so that all Members could benefit from the outcome of the negotiations.

462. That was central to what Members were doing and had many complexities as the paper outlined. When looking at the question, there were two ways to approach that. One was to replicate some of the discussions that might be taking place elsewhere where Members all knew each other's lines. The other one, as suggested in the paper, was that Members took charge of that issue and adopted some practical approaches. Brazil had raised two very specific questions the US agreed with. It was necessary to take up the question of coordination and of how to accomplish, improve and address that.

463. The United States also agreed on the issue of assessment. That work had to be accomplished in tandem with the proposals coming in and Members doing their substantive work. Similarly, the US agreed with the questions raised by Egypt on how to accomplish that, how to decide on the process and how to report. Those were the questions Members had to look at. It would take more than a session or a seminar to do that. That was why the paper was important. It raised issues and foreshadowed how the United States hoped for Members to take that up.

464. Chile had made a very good point by characterizing the paper as a work in progress. That just underscored that Members were going to have to take this up and engage with all of them having to take ownership of that process. No one was going to answer that question except Members themselves. No one was going to offer a magic process. Members would have to figure it out themselves and take it up on a factual foundation. That was why the United States underscored again the need to engage on making that assessment, even if the assessment might require assistance. The US hoped that the paper would take Members forward to what had to be done in that area. It was going to take some creativity and a bit of hard-nose discussion, but, if Members approached that as the paper did, in terms of a problem-solving way and in terms of how all worked for future disciplines, all Members could benefit from the outcome of the negotiations.

465. The representative of Jamaica said that the ideas presented in the proposal by the 16 countries were useful starting points. Jamaica supported the proposal in paragraph 10 that a process of self assessment by each Member was important. Such a review was necessary before Members could commit to binding and enforceable obligations. The provision of TA for that effort would be commendable and might prove instrumental to developing countries and LDCs that had to overcome challenges in conducting the assessment exercise. In paragraph 12, the proposal recognized the importance of going beyond longer transition periods for implementing new commitments and combined the traditional S&D provision with programmes for TA&CB "geared to the obligations to be assumed and the analysis of national needs and priorities".

466. A good guiding principle to be observed was found in paragraph 14, which tiled the possibility of the adoption of new rules simultaneously with TA. Jamaica also considered the suggested creation of a mechanism to organize TA&CB for TF suggested at paragraph 15 to be a good idea and recalled that that was also suggested in the African Group's submission.

467. Jamaica looked forward to the elaboration of more details on such a mechanism, on the form, its organization, the body administering it etc., which would be useful in further discussions.

468. The representative of Argentina said that while first initial answers to some questions on the Latin American paper had already been given, the co-sponsors of the paper would back up those first verbal replies with written answers, which would be more useful for developing the implementation of some of the issues raised in the document.

469. The co-sponsors of the paper were of the view that dealing with that matter was absolutely vital. Now was the best time to tackle it. It was neither too early nor impractical. What Members had to look into was how to make that mechanism, which would define future commitments operational. That naturally required reflection and was a real challenge. But the sooner it was done, the better.

470. Echoing the statement made by the US with respect to the Secretariat compilation, Argentina was of the view that it would be useful if the compilation adopted a cross-cutting approach with respect to the proposals rather than merely listing them based on Articles V, VIII and X.

471. Argentina also agreed with the US that the spirit of problem solving should be guiding Members' work with respect to designing the future disciplines. That would be efficient and beneficial to all.

472. The Negotiating Group took note of the statements made.

B. TECHNICAL ASSISTANCE AND CAPACITY BUILDING

473. The discussion under this agenda item was held in informal mode (with the exception of Members' decision to circulate the World Bank Trade Facilitation Negotiations Support Guide as an official WTO document.)

C. AD HOC ATTENDANCE OF RELEVANT INTERNATIONAL ORGANIZATIONS, INCLUDING THE IMF, OECD, UNCTAD, WCO AND THE WORLD BANK, AT THE NEXT MEETING OF THE NEGOTIATING GROUP

474. The Chairman suggested inviting relevant international organizations, including the IMF, OECD, UNCTAD, WCO and the World Bank to attend the next meeting of the NG on an *ad hoc* basis, as provided for in the Work Plan.

475. It was so agreed.

D. OTHER BUSINESS

476. The Chairman suggested that the next meeting of the Group take place on 25-26 July 2005, as proposed in the indicative list of dates he had shared with Members at the Group's meeting in November 2004.

477. It was so agreed.

478. The Chairman said that, as that slot implied that there would not be another formal session ahead of the July TNC meeting, where he would be asked to report on progress the NG had managed to achieve so far, he wished to share with the Group his thoughts on what he intended to include in that report as his personal reflection of how he saw the current state-of-play. He then read out the main elements of the planned report to the TNC.

479. The Negotiating Group took note of the statement made.

480. The meeting was closed.
